HINDU LAW COMMMITTEE

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Report of the
Hindu Law Committee

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REPORT OF THE HINDU LAW COMMITTEE

I.—PRELIMINARY

This Committee was appointed by a Resolution of the Government of India dated January 20, 1944, for the purpose of formulating a Code of Hindu Law which should be complete as far as possible. As set out in the Resolution, the action taken by the Government was in accordance with the opinion expressed in the Report of the Joint Select Committee on the Hindu Intestate Succession Bill and a specific recommendation to the same effect made by the Council of State. The text of the Resolution will be found in Appendix I.

2. The Chairman of the Committee took charge of his office on the 24th November 1943 and the Secretary on the 31st December of the same year. The three Members assumed charge of their offices on the 12th February 1944.

3. Our first meeting was held at New Delhi on the 26th February 1944 and lasted for three days. At this meeting, it was decided that, in the first instance, a rough draft Code, dealing with all the topics of Hindu Law on which the Centre could legislate, should be circulated to a few leading lawyers in the different Provinces, and that, after obtaining their general reactions to this draft as a whole and taking into account their opinions on the various provisions contained in it, we should revise the draft and then publish it, with suitable explanations, for the information of the public and for eliciting their views.

4. A rough draft Code was accordingly prepared and circulated early in May 1944 to a few lawyers, of whom the following were good enough to send their opinions to us :

(i) Mahamahopadhyaya P. V. Kane of Bombay
(ii) Diwan Bahadur Rajyaratna V. V. Joshi of Baroda.
(iii) Mr. Peary Lal Banerji, and } of Allahabad.
(iv) Dr. Kailas Nath Katju. } of Allahabad.
(v) Mr. Atul Chandra Gupta of Calcutta.
(vi) Sir P. S. Sivaswami Iyer, } of Madras.
(vii) Sir Vepa Ramesam. } of Madras.
(viii) Sir Alladi Krishnaswami Iyer, and } of Madras.
(ix) Mr. P. Govinda Menon. } of Madras.

We wish to record here our grateful thanks to the above gentlemen, whose views and opinions were of much assistance to us.

5. Our next meeting was held on the 12th June at Srinagar in Kashmir and lasted for eight days. At this meeting, we carefully considered the draft Code in the light of the opinions received by us and made extensive alterations in it. The draft, as revised, was published with an Explanatory Statement and suitable marginal notes on the 5th August 1944. We made it clear that the draft was only a tentative one inended to focus the attention of the public on the main issues, and that we intended to revise it in the light of public opinion as elicited by us in writing and orally. We thought in the first instance that it would be sufficient to allow a period of two months for the public to express their views, and the 5th October 1944 was accordingly fixed as the latest date for the purpose. The Explanatory Statement prefixed to the draft Code will be found in Appendix II.

6. The public interest aroused by the Code surpassed our most sanguine expectations. The first edition of 1,000 copies was rapidly sold

out and it was found necessary to reprint a fresh edition of 3,000 copies. These were also exhausted quickly and there were two further reprints of 1,000 copies each.

7. In view of the great public interest aroused, we considered it necessary to have the Code translated into the various Indian languages. With the concurrence of the Government of India, we approached the Provincial Governments for assistance in this matter and translations of the Code into the following languages have been published :

Province	Language	Date of publication
(i) Bombay	Gujarathi . . .	30-11-44
	Marahthi . . .	30-11-44
(ii) The United Provinces . .	Hindi . . .	27-1-45
(iii) Bihar	Hindi . . .	27-6-45
(iv) Bengal	Bengali . . .	12-2-45
(v) Madras	Tamil . . .	20-1-45
	Telugu . . .	20-1-45
	Malayalam . . .	25-1-45
	Kannada . . .	26-1-45
(vi) The Central Provinces . .	Marahthi . . .	9-12-44
	Hindi . . .	..
(vii) The Punjab	Hindi . . .	29-12-44
	Urdu . . .	29-12-44
	Gurmukhi . . .	29-12-44
(viii) Sind	Sindhi . . .	1-12-44
(ix) Orissa	Oriya . . .	15-10-44

In Bengal, where the demand for translations of the Code appears to have been greatest, the Provincial Government had more than 10,000 copies of the Bengali translation distributed free of cost to various persons and institutions.

8. In view of the interest aroused and the delay in the publication of the translations and the insistent public demand, it was found necessary to extend the date for the submission of opinions from the 5th October 1944 to the 30th November and again to the 31st December; a final extension until the 31st January 1945, in the case of Provinces other than Bengal and Madras, and until the 28th February 1945 in the case of those two Provinces, was also found necessary.

9. We held a preliminary sitting at Bombay on the 23rd January 1945. At this meeting, we decided to co-opt the following three persons to help us in our work :—

(i) The Right Hon'ble M. R. Jayakar (formerly a Judge of the Federal Court, and now a member of the Judicial Committee of the Privy Council),

(ii) Sir Sitaram S. Patkar (Retired Judge of the Bombay High Court), and

(iii) Mrs. Tarabai Maneklal Premchand.

We owe a great debt of gratitude to these distinguished persons for the assistance rendered by them, both in the examination of the witnesses in the Bombay Presidency and in our final deliberations. We record with great regret the death in the early part of last year of Sir Sitaram Patkar, a great Judge and scholar, whose deep knowledge of the Hindu Law was of the utmost value to us.

10. The examination of witnesses was commenced at Bombay on the 29th January 1945, and was concluded at Lahore on the 19th March 1945. The tour undertaken by us was a very strenuous one, as will be apparent from the fact that in the period of 50 days between the commencement of the examination of witnesses at Bombay (29th January) and its conclusion at Lahore (19th March), witnesses were actually examined on as many as 38 days. The interval between our arrival at a particular centre and the commencement of the examination of witnesses there was usually 4 or 5 hours, and never exceeded a day. Our tour programme was as follows:—

Place of sitting	Dates on which witnesses were examined
(i) Bombay	29th, 30th and 31st January and 2nd February (4 days)
(ii) Poona	3rd, 4th and 5th February (3 days)
(iii) Bombay	6th February (1 day)
(iv) Delhi	8th, 9th, 10th, 12th and 13th February (5 days)
(v) Allahabad	17th, 18th and 19th February (3 days)
(vi) Patna	22nd, 23rd and 24th February (3 days)
(vii) Calcutta	26th, 27th and 28th February and 1st, 2nd and 3rd March (6 days)
(viii) Madras	5th, 6th 7th, 8th, 9th and 10th March (6 days)
(ix) Nagpur	12th and 13th March (2 days)
(x) Lahore	16th, 17th, 18th and 19th March (4 days)

In all, we have examined 121 individual witnesses and 102 Associations which were represented by 257 persons.

11. We were anxious to hear as many representatives of the different schools of thought as possible orally. The list of witnesses examined by us will be found in Appendix III. In this connection we wish to mention that except in the Province of Madras, and to some extent in Bengal, every association or individual that had offered to give oral evidence, before the date finally fixed by us and had, in addition, responded to our invitation to submit a written memorandum was given an opportunity to appear before us. In the Provinces of Bengal and Madras, it was found necessary to make a selection from the list of the available witnesses, in view of their large number. The selection was made in both cases in the fairest manner possible, the aim being to get persons who could speak with authority, either by virtue of their representative capacity or by virtue of their standing and experience. That a large number of the witnesses should have been members of the legal profession was perhaps inevitable. But we have also examined a number of others, including in particular, representatives of orthodox opinion and of women.

Many important associations and persons expressed their willingness to depose before the Committee at a very late stage, and often only after the examination of the witnesses at their respective centres had actually commenced. These claims were met to the utmost extent possible. A large number of distinguished persons were also specially invited by us to give their views orally, and many of them gladly responded. Sir Nripendra Nath Sircar, ex-Member of the Governor-General's Executive Council, and Sir P. S. Sivaswami Iyer, ex-Member of the Executive Council of the Governor of Madras, who have since passed away, were very ill at the time and we therefore visited them in their respective homes and recorded their evidence. In Calcutta, we went to the Natore Palace to hear the views of the Maharani of Natore and other *purdanishin* ladies.

12. We also visited certain Rescue Homes and Homes for destitute women, both in Calcutta and in Madras.

13. There were black flag demonstrations at Allahabad, Calcutta, Nagpur, Amritsar and Lahore on our arrival in those cities or when we passed through them, but the demonstrators told us that they were inspired by no personal hostility towards us, and merely wished to impress us with the strength of the feeling entertained by orthodox opinion on certain provisions of the draft Code. On the other hand, there were white flag demonstrations at Amritsar and Lahore at which the supporters of the Code were present in large numbers and there were also numerous friendly greetings at various other centres.

14. The tour undertaken by us was of great advantage, as it gave us an opportunity to assess the strength with which particular views and convictions were held and form some rough idea of the classes and sections of the population which held them in the various Provinces. We have indeed learnt much from hearing the witnesses orally and interchanging views with them. Often, witnesses changed their views or unreservedly acknowledged that they required further consideration. At various informal gatherings and parties at which one or more of us were present, opinions were expressed much more freely and frankly than at the public sittings, and we hope that as a result of these contacts we were able to dispel some at least of the prejudices and misconceptions as to the scope of our work and the motives from which we undertook it.

15. We met at Bombay on the 27th September 1945 and the two following days and arrived at certain conclusions. We record with much regret that one of our colleagues, Dr. Dwarkanath Mitter, has not found it possible to agree in these conclusions. We are very conscious that our recommendations would have gained in weight, if we had been able to carry him with us. He had prepared a separate minute embodying his views in advance of the meeting and he made it available to us at the meeting. The minute opposes the codification of the Hindu Law as well as the changes proposed in the draft Code. The arguments advanced by him have been examined in the body of this report. All that we need say here is that since he wrote his minute in September, 1945, much has happened to confirm us in our own conclusions. Thus, a number of witnesses who appeared before us bitterly opposed any recognition or validation of *sagotra* marriages and Dr. Mitter was accordingly led to express his views in the following terms:

> "With regard to *sagotra* marriage, it is void under the Hindu law. It is no marriage at all. In such circumstances, there will be no hadship, as the parties can marry under the Civil Marriage Act."

It is, however, noteworthy that in November last the Central Legislature passed an Act validating, with retrospective effect, marriages of this kind. Not only has there been no popular upheaval against this measure, but, so far as we are aware, the Hindu community appears to have accepted it without any adverse comment. Similarly, Dr. Mitter has said in his minute that he is definitely of opinion that there is no necessity for making monogamy a rule of law among Hindus. But legislation has been recently passed in Bombay prohibiting polygamy and a member of the Madras Legislative Assembly has just introduced a similar Bill for that Province, which has every chance of being passed into law at an early date. These instances suffice to show either that the opposition voiced before us did not accurately reflect public opinion or that public opinion is rapidly changing in these matters.

16. But more important than any happenings in India are the repercussions of events in the international sphere. In recent months, India has been participating in international conferences and pleading for human rights and for equal treatment of Indians in foreign countries with an eloquence which has commanded universal admiration. The eyes of the world are upon her now and it would be more than a misfortune if at this juncture she were to fail to enact within her own borders a Hindu Code in which there was equality before the law and in which disabilities based on caste or sex were no longer recognised. We are now almost bound in honour to remove these disabilities at the earliest possible moment. This should be a sufficient answer to the question, who demands these changes in the law?

17. Three of us met at Bombay on the 17th November 1946 and the following two days at which we deliberated over the various issues; we met again at Delhi on the 11th and 12th January 1947, and finally settled the lines on which the draft Code and our report should be drawn up.

18. We regret the delay in submitting our report which was due to various reasons not necessary to detail here. The delay has, however, not been without its advantages : as we have already explained, time has enabled us to view the subject in better perspective and confirmed us in our original conclusions.

II.—PUBLIC ATTITUDE TOWARDS CODIFICATION

19. Before proceeding to deal in detail with the objections which have been raised, it is necessary to consider the question of the extent to which the idea of codifying the Hindu law has commended itself to Hindu public opinion in general.

20. The proposal for codification has naturally been received in different ways by different sections of the public. At one extreme are the rigidly orthodox who are vehemently opposed to the whole idea while at the other stand the ultra-progressives who want that one uniform territorial law should govern not only Hindus but also Muslims, Christians and all others in the land. The bulk of the Hindu community occupies a middle position, some of it leaning to the right and some to the left. That there are cleavages of opinion on the subject of codifying the Hindu law cannot be denied. There is however no doubt in our minds that, taking quality into account, the opinion which favours codification decidedly outweighs that which is opposed to it.

21. In Bombay and Madras, particularly in Madras, the Code had a very favourable reception, and a considerable majority appeared to support the main proposals contained in it. In Bengal, the Central Provinces and the Punjab, the reception was of a mixed character, and there was both staunch support and vehement opposition. In the United Provinces and Bihar, although certain proposals contained in the Code were not liked by many, there was much enlightened, including orthodox, support for the

endeavour to enact a uniform code of Hindu Law. We could not visit the smaller Provinces, namely, Orissa, Assam, Sind and the North-West Frontier Province, but so far as we can judge from the written memoranda and the few witnesses from some of these Provinces who appeared before us at other centres, there were no noticeably marked reactions, either for or against the proposals in the draft Code.

22. *Women's views.*—The primary aim of most of the alterations in the existing Hindu Law proposed in the draft Code being to effect an improvement in the status of women, it will be useful to state the reception which it has met with from them. Almost all Women's Associations of standing came out strongly in favour of the Code. Women who confidently claimed to represent the views of the vast majority of their educated sisters heartily welcomed the proposals and only wished that they had gone much further. Opposition came from two sections of women, namely, those who are deeply attached to the orthodox or *sanatani* way of life and those who belong to the aristocratic classes of society. The former were on principle opposed to all change while the latter seemed specially to dislike the provisions relating to succession. Both these sections said that they were quite happy with things as they were. Friends of the Code complained that there was much untrue propaganda against it and that it was bruited about, for instance, that it permitted brothers and sisters to marry, husbands to divorce their wives at will, and so on. It is difficult to say how far this complaint was justified. Mrs. Ambujammal of Madras, in the course of her evidence, said: "Of course, orthodox ladies were at first shocked by the mention of divorce, but when I explained that it was a permissive provision and that it was circumscribed by various conditions, they not only supported it but even suggested that the conditions should be relaxed: for example, they said that 7 years (as the period of desertion to be proved) was too long." Similar evidence was also given by witnesses from the Punjab. It is therefore rather unfortunate that in Bengal, women who favoured the Code were excluded from meetings organized by those who were against it. Most of the women who opposed the Code seemed to us to be merely reflecting the views of their men-folk. These ladies appeared to feel that what their men opposed so much could not possibly be beneficial to them. On the whole, we must say that the impression left on us is that the bulk of educated women, especially of the middle classes, favour the changes made by the Code, although some do feel genuine misgivings regarding divorce.

23. Having regard to our appreciation of the public feeling in this matter as set forth in the preceding paragraphs, we have thought it our duty to proceed on the assumption that codification is desirable.

24. It is not necessary that the whole of the Code should be passed into law at one stroke. It will be open to the Legislature, if it prefers that course, to take the Code, Chapter by Chapter, and proceed with each Chapter separately. Such a course will not be exposed to the disadvantages of piecemeal legislation, as the Legislature will have in the draft Code prepared by us an entire picture of the relevant aspects of the proposed law as a whole. It was the lack of such a picture which prevented the Joint Select Committee of the Indian Legislature from giving its final opinion on the Intestate Succession Bill. On the other hand, the Legislature may consider it more advantageous to take the whole Code into consideration at once and pass it into law as a single measure, and there is nothing to prevent its doing so either.

IV.—General objections

25. We now proceed to deal with some general objections which have been raised.

26. *Code* ultra vires.—The first of these is that the Code is *ultra vires* the Central Legislature. It is argued that the Hindu personal law is religious law which was laid down by the Hindu sages and that the Hindu State or Sovereign Power had no power to alter this law, that the British Government and Parliament only inherited the legislative power exercised by the ancient sovereigns of the country, and consequently that power to legislate in regard to these matters was not possessed by the British Parliament and could not be delegated by it to the Indian Legislature. As a legal argument this hardly deserves serious notice, but we shall deal with it all the same. The subjects dealt with in the Code, *viz.*, succession to property other than agricultural land, marriage and divorce, infants and minors, and adoption are all specifically included in the Concurrent Legislative List. Several laws affecting the Hindu Law of succession and marriage have been passed by the Legislature, and their validity has not been impeached by any one so far. On the other hand, the Federal Court has expressly upheld the validity of the Hindu Women's Rights to Property Act, 1937, except in so far as it relates to agricultural land. This objection cannot, therefore, be regarded as a valid one and it is much to be doubted whether it was urged with any expectation that it might find acceptance. About the advisability of codifying the Hindu Law with or without modifications, there may be room for differences of opinion, but there can be none as to the legal competency of the Indian Legilslature to codify the Hindu Law on the lines proposed.

27. *Religion in danger.*—The argument of 'Religion in danger' has inspired much of the propaganda against the Code and it was also freely voiced by many witnesses who appeared before us as well as in numerous written memoranda submitted to us. It is, therefore, necessary to examine it closely. A typical answer to the question how the giving of a share to the daughter will affect *dharma,* either in this world or the next, was furnished by Rao Saheb N. Natesa Iyer of Madura:

"It is contrary to our philosophy of life. Suppose a person who has property worth Rs. 5,000 dies leaving two sons and two daughters, each daughter will then get only one-sixth of the Rs. 5,000, *i.e.,* Rs. 833. If the sons are left undisturbed, they may feel it to be their duty to expend the whole Rs. 5,000 on the marriage expenses and in the shape of subsequent gifts to the daughters. If the daughters take a share, the love of their brothers will be lost to them. It is, therefore, better to leave the law as it is. So much for the worldly point of view. From the spiritual point of view, property exists for the advancement of the spiritual life which can be done only by the son who offers *pindas* to his father and other ancestors. The daughter cannot contribute to the spiritual benefit and hence she is not entitled to any share of the inheritance". Quite apart from the depressing statement that brotherly love would cease if daughters took a share of the father's property, this is a curious answer; its first half is inconsistent with the view expressed in the second, for, if property should devovle on the sons to the exclusion of the daughters, in order to enable the sons offer *pindas* to their father and other ancestors, it is improper that they should spend all their patrimony on the performance of their sisters' marriage, and thereby deprive themselves of the wherewithal to offer *pindas* to their ancestors. The answer given in the second portion also overlooks the fact that under the proposed Code the sons are not shut out from the inheritance, but get double the share of the daughters, and, after all, performance of the *shraddhas* does not constitute a major item of expenditure.

28. It may be said that religion is in danger, because some alterations are proposed to be made in the law as laid down in the *smritis.* But again and again, in the course of the examination of witnesses, when they were

confronted with *smriti* texts or other original authorities entitled to the highest credit, which supported a suggested alteration, they said that they preferred the existing law, even though it might be based only on a custom in derogation of the texts or on a decision of the Privy Council. A striking instance of this occurred in Lahore. Pandit Raj Bulaqi Ram Vidya Sagar, President of the Anti-Hindu Code Committee, Amritsar, said "There should be no deviation from the law as laid down in the Mitakshara", but almost immediately afterwards, on the question of the daughter's share, he said: 'Even if the Mitakshara says that a daughter must be given a share, I will not agree to it".

29. The representatives of the Hindu Mahasabha of Bihar said: "Our belief is that the Hindu Law is of divine origin. It is not a king-made law. If there is any codification, we shall be governed by king-made law and cease to be governed by divine law". Yet, in reply to Dr. Mitter, who asked : "The clause giving absolute right to women is in accordance with the Mitakshara. Do you agree to it?", they said: "No; we prefer the Hindu Law as interpreted by Privy Council to the Mitakshara".

30. When it was pointed out to orthodox witnesses that *Vasishta* could have intended only a single one of the four interpretations which have been put on his well-known text relating to adoption, the witnesses were, generally speaking, unwilling to have the law so altered as to make one interpretation prevail throughout India, In other words, they wanted to stereotype the existing diversities and differences in interpretation, however inconsistent they might be with the spirit of the original text.

31. Attempts were, of course, made in some cases by those learned in Sanskrit to explain away the original *smriti* texts, but not generally with pronounced success. In a few cases, the witnesses frankly admitted at the end that the texts were too strong for them.

32. As forcibly pointed out by Mr. V. V. Srinivasa Iyengar, an ex-Judge of the Madras High Court, those who deprecate legislation on religious grounds appear to be labouring under the misconception that the Hindu Law has remained static and unchanged since the time of *Manu* and *Yajnavalkya* and that that law has been preserved in its pristine purity during all these centuries. This, of course, is an erroneous view. Mr. V. V. Srinivasa Iyengar's oral evidence is extracted below:

"I venture to think that all this opposition is based on sentiment and not on reason. I also think that the strength of the opposition is due to a misconception on the part of the public that what they call Hindu Law has remained the same from remote antiquity up-to-date. Changes have been made in the Hindu Law by the authors of the *dharmashastras* from time to time, in consonance with changing ideas and requirements. But the people have not appreciated this. Nor have they adequately realised the fact that when the British came to administer the law in this country, they failed to recognise customs and changes in customs which came into existence after the last of the *dharmashtastras* had been written. The British went back to *Manu* and the Pandits were no better. They did not declare the law according to the consciousness of the community at the time, as to what the law then was".

33. It should also be pointed out that the *smritis* deal with several branches of the law and not merely with inheritance and marriage. Among the titles of the Civil Law dealt with by *Manu* are: Judicial procedure, Recovery of debts, Deposits, Sale without ownership, Concerns among partners, Non-payment of wages, Non-performance of agreements, and so on; while among his titles of Criminal Law are: Defamation, Assault and hurt, Theft, Adultery, and Gambling and Betting. Every one of the

above titles of law has been dealt with by the Indian Legislature, and the *smritis* have been effectively superseded in regard to them. It is difficult to contend that some portions of the *smritis,* namely, those relating to inheritance and partition, have a special sanctity superior to that of the other portions, the supersession of which has hardly evoked any protests or expressions of regret.

34. Perhaps, the most effective reply to the argument of religion in danger was that given by the spokeswoman of the Punjab Women's Delegation, who said:

"As regards the argument that the Code interferes with religion, I see no force in it at all. I do not concede that the Hindu law should be regarded as sacrosanct by virtue of its alleged Divine origin. It was made by man and many changes have been made in it by the great commentators from time to time. The right to make changes has been recognised in the *dharamashastras* themselves and forms part of them. Nobody, therefore, has a right to cavil at the changes proposed in the Code."

35. We also desire to draw attention to the following moving statement made by Mrs. Saralabala Sarkar of Calcutta in the course of her evidence:

"I am an old, orthodox lady observing fasts and living an austere life; I could not possibly support the Code if it were against the Hindu religion."

36. *Voting to be confined to Hindus.*—Anxiety was expressed that the Code should be voted on only by the Hindu Members of the Legislature. We can well understand and sympathise with this point of view, and indeed it is quite clear that persons of other religious denominations will be very loath to interfere in matters which are the exclusive concern of the Hindu community. Many witnesses have said that if the voting on the Code is confined to Hindu members and wins the support of a majority among them, they would themselves accept it. For example, the representatives of the Maheshwari Sabha said at Calcutta:

"If the voting on the Code is confined to the Hindu members of the Legislature and a majority of such members approve of the Code, my community will support it."

The above indeed represents a general feeling to which we think it necessary to draw attention here.

37. *Uniformity.*—It has been argued that in view of the vast area of the country and the variety of the laws and customs prevailing in its different parts, it would be quite impossible to produce a uniform Code and that the attempt to do so is foredoomed to failure. The aim of the ancient law-givers, the writers or compilers of the *smritis,* was always to produce a Code of law which would be applicable to all Hindus in the land. All the *smriti* texts are of universal validity, and although certain commentaries and digests have been accorded greater authority in some local areas than in others, yet, no commentary or digest can be said to be without some measure of authority in every part of India, especially when it deals with matters which have not been dealt with by the primary local authority. We also wish to point out that even now there is a considerable measure of uniformity in the Hindu Law applicable to the different Provinces. The differences in that law, where they exist, do not seem to us to be intractable in character. Parts V and VI of the Draft Code which deal with "Minority and Guardianship" and "Adoption" respectively have received a wide measure of commendation and have provoked little opposition or adverse comment. Indeed, even many of those who were severely critical of the Intestate Succession and Marriage portions excepted Parts V and VI from their censure. Four Judges of the Calcutta

High Court who have expressed their disapproval of the Code as a whole have yet been good enough to say : "The Chapter on maintenance, we must say, has been admirably worked out and removes certain long-felt grievances." This fortifies our view that the unification of the Hindu Law may be a difficult task, but that it is certainly not impossible of achievement. The work will however require time, much consultation, and a good deal of patience, for ancient and long cherished prejudices die hard.

38. *Elasticity Argument.*—We are not much impressed by the argument which has been advanced in some quarters that codification will deprive Hindu Law of its present elasticity. In the first place there should be little room for "elasticity" in the rules of inheritance, marriage, or adoption. What is required in these matters is certainty, and not elasticity which is only another name for uncertainty. There are, of course, other matters where room has to be left for judicial discretion, *e.g.*, in the appointment of guardians, the determination of the amount of maintenance to be awarded in a given case, etc.; in such matters, the Code preserves the elasticity of the existing law. Wherever elasticity is desirable, the Code seeks to preserve it; wherever elasticity is not desirable, the Code aims at certainty.

39. *Law settled.—No need to codify.*—Yet another argument has been advanced which runs counter to the one noticed in paragraph 37, *viz.*, that all the principles of Hindu Law have become settled now for all practical purposes and that an attempt at codification at the present day will involve an unsettling of the existing law. The Calcutta Judges, for example, say : "Most of the rules of Hindu Law are now well settled and well understood, and a Code is not, therefore called for at all." But this would appear to be just the reason for codifying the Hindu Law, for it indicates that the development of Hindu law has now reached a stage when an attempt to set down its principles in the form of a simple and easily understood Code can and should be made.

40. *Exclusion of agricultural land.*—The exclusion of agricultural land from the scope of the Code has naturally led to the contention that a Hindu Law of Instestate Succession which omits to deal with the bulk of property in India cannot be regarded as having attained the fundamental objective of uniformity. We would however point out that what we have aimed at is a uniform law for all Hindus and not necessarily a uniform law for all forms of property. It may well be that in the interest of agriculture, special laws will in due course be enacted to secure the consolidation and prevent the fragmentation of agricultural holdings; and these may include a special law of succession, differing from the law applying to other forms of property.

41. *Different laws for British India and Indian States.*—Many critics have pointed out that the Code will make a new Hindu Law applicable to British India, while the old Hindu Law continues to be applicable to Indian States, but this criticism overlooks the fact that some Indian States, including the important Hindu States of Mysore and Baroda, have already passed legislation affecting the Hindu Law in fundamental respects. There is nothing to prevent other Indian States from dealing similarly with the Hindu Law applicable to persons subject to the legislative authority of those States. If, as a result of the extensive and deep examination of the question which has taken place in British India, a uniform Code of Hindu Law is enacted by the Central Legislature, the inevitable tendency of Indian States will be to copy this legislation and make it applicable within their territories also, in the same way as the great Indian Codes

of the last century have been made so applicable. This was pointed out to us by Mr. D. H. Chandrasekharaya, then President of the Mysore Legislative Council:

"As soon as the Draft Hindu Code becomes law in British India, progressive States like Mysore and Baroda will, I am sure, adopt it with necessary modifications."

We agree that the above represents a true estimate of the situation.

42. *Codification of existing law favoured.*—Many persons have expressed opinions, both in writing and when appearing in person before us, in favour of the codification of the existing law without any modification whatever. According to this view, the existing schools of law should be left as they are. Some have gone to the extent of saying that both codification and reform cannot possibly be undertaken simultaneously. This in our opinion is not a correct view. Codification necessarily involves minor amendments and adjustments here and there. When the problem is viewed as a whole and in proper perspective, the necessity for many adjustments and changes which cannot properly be described as of a minor character, reveals itself, and we are satisfied that the only condition for making these changes is that they should be generally acceptable.

43. *Piecemeal amendment.*—The view has also been advanced that the proper course is not to attempt to codify the Hindu Law in its entirety, but only to make such amendments in that law as are found to be absolutely necessary. When, however, an attempt was actually made at amendment, critics urged that what was required was a comprehensive code and that tinkering at the law here and there was quite unsatisfactory. The two criticisms are, of course, mutually destructive. The main object of both kinds of criticism seems rather to postpone "the evil day" on which amendments to the existing law will come into force. We consider that although objections to piecemeal amendment have often been advanced which cannot be sustained, yet, for the reasons set out in the Report of the Hindu Law Committee of 1941, codification of the entire Hindu Law, so far as it may be practicable, is the most desirable course. At same time, as we have already pointed out, if it is considered that the course of piecemeal amendment is preferable for any reason, for instance, for the sake of obtaining quick results, there can be no serious objection to the adoption of that course. The Calcutta Judges say:

"We are definitely of opinion that any attempt to break down the various schools of law and merge them all in one uniform system is a move in the wrong direction. But this is not saying that there may not be elements in any existing school of law that do not call for a change. Nor would it be right to decry any proposal to introduce such specific changes by legislative action as 'piecemeal legislation', and to insist on comprehensive legislation as the only alternative. We think there is a certain amount of unfounded prejudice against what is usually called 'piecemeal legislation'. Unlike other countries in Europe, legislation in England has always been piecemeal, and has led to no untoward results. It is piecemeal, compared with the totality of the laws, but may be quite exhaustive so far as that particular topic or branch of law is concerned. In such partial legislation, however, care must be taken to see that it is not a misfit with the rest of the law as was undoubtedly the case with Act 18 of 1937 (Hindu Women's Rights to Property Act)."

44. *Amendments suggested by conservatives also.*—In this connection, it may be pointed out that many of those who opposed the idea of codifying the Hindu Law were yet in favour of various amendments. For instance, Diwan Bahadur R. V. Krishna Iyer of Madras, who said that

he was opposed to fundamental changes, yet supported (i) the absolute estate for women, (ii) divorce, (iii) *sagotra* marriages, and (iv) the extension of the Bombay rule of adoption to the rest of India. The first two of these can hardly be described as minor or unimportant changes. Another witness claiming to represent the orthodox view, who considered that the Code was unnecessary and uncalled for, (i) agreed that the unmarried daughter should have half the share of a son, (ii) favoured inter-caste marriages, and (iii) expressed the view that divorce should be allowed where humanitarian grounds require it.

45. It may also be pointed out here that many representatives of orthodox opinion wanted alterations of a substantial character to be made. For instance, Pandit Ganga Shankar Misra of the United Provinces, representing the All-India Dharam Sangh said:

> "I do not accept as correct the decisions of the High Courts or of the Privy Council. They were, for the most part, rendered by Judges who were ignorant of Sanskrit and had to rely on translations. Their decisions have not expressed the Hindu Law correctly. I am no lawyer and cannot glibly quote judicial decisions, but I am clear that the *present state of the Hindu law is highly unsatisfactory and that it should be changed*. We must go back to the original texts dealing with the Hindu Law, and for their proper interpretation. we must have recourse to learned Pandits. I feel strongly that life which is not led according to the sacred *smritis* is on a low plane and unsatisfactory. A change is, therefore, required."

In many directions, the draft Code as finally revised by us may be said to reflect the spirit of the ancient law much better than the law as now administered.

46. *Code in Sanskrit.*—Another sentimental objection which has been expressed in some quarters is that a Hindu Code should be in Sanskrit and not in the English language. Dr. Prabhu Datt Shastri of Lahore said:

> "Apart from our political subjection, we are being conquered culturally. If we agree to have a Hindu Code in the English language, we would be admitting our cultural defeat at the hands of the British Government. If there is necessity for a Code, let it be in the Sanskrit language."

There are, however, obvious difficulties. The number of people who are literate even in their mother tongue is not very large. To enact a Code for them in Sanskrit, a classical language which is not spoken now by any section of the people, will make the law totally unintelligible to the vast majority of the Hindus in this country. We, therefore, recommend that, as usual, the Code should be in the English language, and translated into the various Indian langauges and, if necessary, into Sanskrit also.

47. *No demand.*—Lastly, we wish to deal with the argument that there is no demand for the Code. Again and again and in different forms was this argument pressed upon us. We were repeatedly told that no large body of persons in the country wanted any reform of the Hindu Law. We have already given a general answer to this objection (*see* paragraph 16); but we shall deal with it more specifically, taking for this purpose the most controversial of the changes that we have proposed, namely, those relating to monogamy and divorce. Dr. Mitter has, in his minute, tabulated the evidence given before us for and against the proposed changes and the result is briefly as follows:—

——	Individuals and groups for	Individuals and groups against
Monogamy	75	99
Divorce	78	103

We much doubt whether the above figures accurately reflect public opinion, for many who agreed with the provisions contained in the Code in the relevant respects told us that they did not think it necessary to lead evidence before us, as they were under the impression that only opponents of the Code should appear before us. Even on the assumption that the figures are a reliable guide to public opinion, we may point out that the minority in either case is far from 'microscopic', amounting as it does—roughly speaking to three-sevenths of the whole number. But it is a minority; why then do we propose a change? The answer is that there is in the existing law a harshness which its authors never intended; it comes only to the notice of a small number of men and women engaged in social work, so that only a few lift their voice against it. To mention a typical instance: a man marries a young girl and then, after a short while, either because he has not got the dowry he expected or for some other equally unworthy reason, deserts her and marries another girl. Under the existing law, he can do this with impunity, while his first wife is tied to him for life and drifts to one of the rescue homes in some city. The fact that such cases are few is a poor argument for leaving them without a remedy. Road accidents in a city may be few, but humanity requires that provision should be made for them when they do occur. And so the real question to be considered is not how many or how few demand the changes proposed, but whether the proposals themselves are on the right lines and worthy of acceptance.

48. No thoughtful observer of the present conditions and trends in Hindu society can fail to be impressed by the great need there is to alter the law so as to make it fit the new pattern to which Hindu society seems to be rapidly adjusting itself. The Code is an attempt to fulfil this need.

49. Some advocates of the orthodox point of view have said that there is nothing to prevent reformers from having their own laws but it is not practicable to make a law for an undefined, undefinable, and continuously growing, portion of the community. Such a law will only lead to confusion.

50. Most of the provisions in the Code are of a permissive or enabling nature, and impose no sort, of compulsion or obligation whatever on the orthodox. Their only effect is to give a growing body of Hindus, men and women, the liberty to live the lives which they wish to lead, without in any way affecting or infringing the similar liberty of those who prefer to adhere to the old ways.

V.—MAIN ALTERATIONS

51. Turning now to the contents of the Draft Code, the main proposals on which differences of opinion have manifested themselves in varying degree are the following:—

(i) The abolition of the right by birth and the principle of survivorship and the substitution of the Dayabhaga for the Mitakshara, in the Mitakshara Provinces.
(ii) The giving of half a share to the daughter.
(iii) The conversion of the Hindu women's limited estate into an absolute estate.
(iv) The introduction of monogamy as a rule of law.
(v) The introduction of certain provisions for divorce.

I.—*The Mitakashara* versus *the Dayabhaga*

52. We have given our most anxious consideration to the first, and perhaps the most important of the above points, *viz.*, the Mitakshara *versus* the Dayabhaga. Many witnesses, particularly in the United Provinces and

Bihar and, to some extent, in the Punjab, were in favour of retaining the Mitakshara. Some evidence was given before us at Lahore that businesses, particularly banking businesses, would be hampered, if not ruined, if the Dayabhaga replaced the Mitakshara. This apprehension seems to us to be without justification. It is certainly not the case that businesses conducted by Muslims, Parsis, or Englishmen have suffered from the fact that they do not have the Mitakshara joint family system. One of the most progressive commercial communities in the southern districts of the Madras Presidency is the Nattukottai Chettiar community and their commercial enterprise was attributed by the late Mr. S. Srinivasa Iyengar "to their ideas of the legal relations of the members of their family which approximate more to a partnership than to those of a Brahmin joint family"—(*See* "Law Reform and Law", an address delivered in Madras before the annual gathering of Lawers on April 17, 1909).

53. In this place, it will be appropriate to deal with another argument which was advanced before us by many of those who wanted the Mitakshara to be retained. These witnesses were afraid that when estate duty came to be levied, the Dayabhaga family would be in a worse position, as the devolution in such a family would be entirely by succession, whereas, in the Mitakshara joint family, the devolution would be by survivorship in respect of joint family property, and by succession in respect of only separate or self-acquired property. We do not, however, think that there is the least likelihood of devolution by survivorship in a Mitakshara family escaping the attention of the tax-gatherer, if such a duty is imposed in this country. In other countries also, where the duty is levied, property passing by survivorship is not exempt.

54. The case of the improvident father who will squander away his ancestral estate for illegitimate or immoral purposes was frequently pressed upon us. But the critics forget that the doctrine of the pious obligation of the son to pay his father's debts has been so shaped by judicial decisions as virtually to deprive the wife or the sons of any real protection against improvidence on the part of the husband or the father. Besides, cases where sons take advantage of their right by birth to incur heavy debts, or to claim their share and live separate from the family so that they may lead their own lives, unfettered by parental control, are equally, if not more, frequent. The argument thus cuts both ways and seems to us to be totally inconclusive.

55. A valid objection to the present law is that the Mitakshara father is now unable to obtain the money he may need for any urgent family purpose by what, in the long run, is the most economical way of raising it, *viz.*, selling at once a small portion of the ancestral estate. The father thus shares the disability of the Hindu widow in this respect. Like her, even when he is able to find a willing purchaser, it is seldom possible for him to obtain the full market value for the property sold.

56. Much of the sentiment which supports the Mitakshara is due to a natural instinct of conservatism, and to the respect felt for an ancient institution which has come down to us from remote antiquity. This, within limits, is a commendable feeling. But the supporters of the institution seem to forget that it has been shorn by judicial decision or legislative enactment of most of its characteristic features. For instance, under the Hindu Law as authoritatively interpreted by the Privy Council the unity of the Mitakshara family may be broken by any member, at any time, by a mere unilateral expression of his intention to separate from it. Again it is open to the creditor of an individual coparcener to attach his interest in the joint family property and bring it to sale. Yet again, the father has the right to alienate the joint family property for an antecedent debt. Furthermore, when the father becomes an insolvent, his right to dispose

of his sons' interest in the joint family property passes to the Official Assignee under section 52(2)(b) of the Presidency-towns Insolvency Act, 1909. Although the position is now different under the Provincial Insolvency Act of 1920, proposals have been made for bringing that Act also into line with the Presidency-towns Insolvency Act in this respect. Finally, the Hindu Women's Rights to Property Act, 1937, has made the widow the heir of her husband's interest in the joint family property and, although she takes only a Hindu woman's limited estate in the property, yet she can enforce her right by asking for a partition of the joint family property. It is therefore clear, however much some of us may deplore the fact, that the Mitakshara joint family is fast disintegrating and the process can hardly be arrested if injustice or inconsistency is to be avoided.

For example, we put to some of the witnesses the case of a Mitakshara father dying leaving a daughter and a brother; his interest in the coparcenary property goes to the brother by survivorship and if the brother subsequently dies leaving a daughter, the interest goes to the brother's daughter, the original owner's own daughter being thus ousted. No one desired such a result, but it could only be prevented by a further inroad upon the existing Mitakshara Law: *e.g.* by giving the daughter a right by birth similar to that of a son or by giving the father a right to dispose of his coparcenary interest by will or by some such device. Again if the daughter is to have an absolute estate in the property which she gets from her father, how can we consistently refuse a similar estate to the son by insisting on the Mitakshara rule that his son, grandson and greatgrandson shall have a right by birth in such property? And so we are driven from point to point; we can find no logical halting-place until we abandon the right by birth as well as survivorship and completely assimilate the Mitakshara to the Dayabhaga in these respects.

57. In this place, we may refer to the evidence given by the Rt. Hon. V. S. Srinivasa Sastri on the point, which runs as follows:—

"I confess, having grown up under the old ideas of the joint family, I was a little shocked at first at the right by birth being abrogated. There is some point in the ojection that the joint family system is being disrupted. But the joint family is already crumbling; many inroads have been made into it; the modern spirit does not favour its continuance any longer. The choice is between maintenance of big estates and recognition of the independence of individual members of the joint family. The latter, in my opinion, is a more important aim as it affords greater scope for individual initiative and prosperity."

It will be noticed that Mr. Sastri began with a strong bias in favour of the Mitakshara but was driven to the view that the Dayabhaga is preferable. Among other prominent supporters of the Dayabhaga are Sir Harshadbhai Divatia, who recently retired from the Bench of the Bombay High Court, Mr. M. C. Setalvad of Bombay, Mr. Atul Chandra Gupta of Calcutta and Sir Vepa Ramesam of Madras.

58. A reasoned view in support of the abolition of the right by birth under the Mitakshara coparcenary was given by Principal C. L. Anand of Lahore, whose evidence is extracted below:

"I support the abolition of the right by birth and of the coparcenary. I cannot see how the abolition of the right by birth can be said to be against the *smritis*, because in the Dayabhaga system which is equally founded on them, there is no coparcenary. As a result of the legislation of 1937 and 1938, the Mitakshara Coparcenary has already lost one of its chief characteristics. With the admission of the widow, it will no longer consist of male members only. The power of free disposition is recognised in every other system of law and it is time for the Hindu Law to fall into line. The theory of coparcenary rests on conceptions of primitive law and is a relic of the patriarchal theory. Even under the Code, there is nothing whatever to prevent brothers from continuing to live together as members of a joint family as in the Dayabhaga, and there need, therefore, be no real interruption to family life."

59. The highest authorities on Hindu Law are also of the same view. In the address referred to in paragraph 52 above, Mr. S. Srinivasa Ayyangar also said:

"Broadly speaking, amongst Hindus, those individuals or communities have been most successful and enterprising that have practically controlled their acquisitions and have departed most from the normal type of the joint family. Ability to realize easily one's own wealth; willingness of third persons to give ready credit to, and to deal with each adult member of the family; freedom for a member to invest his ancestral or acquired wealth so that he may make the most of it for himself without the fear of others coming to claim a share—these things are indispensable for commercial enterprise and economic progress. Under altered conditions, we should avoid the demoralizing tendency towards *benami*, which is now so persistent, and be able to eliminate the existing reluctance to put one's all in an industrial concern which is the more easily traceable by an adverse claimant, the more it is prosperous. Under existing conditions, the qualities of economy and thrift will not be learnt by every one, nor can a high standard of comfort be reached or maintained. Were the present system abolished, hypocrisy and ill-feeling would not receive daily nourishment and there would be scope for self-reliance and the development of all that was best in one. The desire to innovate which is the life of all progress would have full play. No rule of religion requires the continuance of the existing system which, after all, is but a relic of the primitive family. First in importance (therefore) is the need for the reform of the Mitakshara system of holding property. We should substitute for it a property law, similar to, but not identical with, the Dayabhaga system. The least that ought to be done is to abolish coparcenary property with its incident of survivorship, and to completely obliterate the son's right by birth. The father should be at liberty to dispose of his properties, and during his lifetime, the son should not be entitled to claim a partition. The brothers should inherit the paternal estate in equal shares which should, on their deaths, go to their respective heirs."

60. Writing about 32 years later in the Golden Jubilee Number of the "Madras Law Journal", Mr. S. Srinivasa Ayyangar, fresh from his task of editing the 10th Edition of Mayne's Hindu Law, which is acknowledged on all hands to be a classic contribution to Hindu jurisprudence, said:

"Reforms are also required in the Mitakshara law of coparcenary. Serious inroads have been made into the coparcenary by the rules regarding the son's liability for his father's debts, by the doctrine of severance in status by unilateral declaration of intention, and by the recent enactment that a widow of an undivided member takes her husband's interest in the coparcenary property. It is time to declare that every member of a joint family is entitled to his specific share and to abrogate the rule of survivorship so as to make the members of the joint family hold the family property in quasi-severalty, as tenants in common. The Legislature should lay down only one mode of succession and the rules of inheritance should be the same, whether the family is divided or undivided and whether the property is joint or separate. In other words, the Dayabhaga joint family system should be made universal in India and the glittering doctrine of the son's right by birth and the anomalous, antiquated and unjust doctrine of survivorship discarded. The present attenuated rules governing a Mitakshara coparcenary do not protect the joint family in the enjoyment of its property but operate only as hindrance to its economic efficiency. Right by birth and survivorship, and the restrictions imposed by them on the power of alienation and the deprivation of the right of succession of those who are nearer and dearer to a deceased male member than a coparcener are all outworn indicia of the ancient type of family which has become almost extinct. The large urban life of these days, the consequent separation of the members of the family and their employment or avocations in distant parts of the country and above all, the new ideas of individuality and the consequent conflicts in the aims and aspirations of the various members of the family have resulted in the emergence of the modern Hindu family life which is both in actuality and in sentiment far removed from the spirit and purpose, the area and the ideals of the ancient joint family system. The new spirit has penetrated even to remote villages and there is no need any longer for the retention of the ancient legal formulae which only vex our hearts and entangle our feet and hinder economic planning and improvement as well as affect adversely the smooth co-operation and sweetness between coparceners which should characterise family life."

61. Sir Srinivasa Varadachariar, retired Judge of the Federal Court, whose knowledge and mastery of the Hindu Law are beyond question and who freely placed his invaluable learning at the disposal of this Committee, has counselled us that the best solution, as in fact is the simplest, is to substitute the Dayabhaga for the Mitakshara system.

62. It is true that there is in several quarters a strong sentiment in favour of preserving the Mitakshara and that some eminent lawyers share the feeling. Even we ourselves are divided in opinion on the general question and one of us has been able to agree in the particular provisions of the proposed Code only because they do not affect agricultural land. It must be some comfort to those who differ from us to feel that in any case a step has now been taken towards a uniform territorial law for all Hindus, for, as Mr. S. Srinivasa Ayyangar observed in the Golden Jubilee Number of the "Madras Law Journal" (1941) already cited, "The unification, however, of Hindu peoples at least throughout India in the matter of their laws of family and of property and succession has become increasingly feasible and should therefore be regarded as of immediate and paramount importance."

II.—*The Daughter's share*

63. The cases of the married and of the unmarried daughter may be considered separately. As regards the married daughter, the arguments advanced against giving her a share are that she always gets a very substantial portion of the family property in the shape of dowry and jewels and other presents, that the giving of a share over and above this will be unfair, that it will introduce a stranger, namely the son-in-law, into the family, and that this is very undesirable, particularly where the family is carrying on a joint family business as it may, in many cases, mean an end of the business. It was also said that the giving of a share to the daughter would lead to friction between brother and sister, diminish the affection between the two, and deprive her of the help which her brother was now rendering her in all times of need. Many witnesses before us strongly urged that numerous families now almost ruined themselves in providing dowries and meeting the marriage expenses of daughters or sisters in the family. Much was also made of what may be called the fragmentation argument, and it was said that the introduction of the daughter as an additional sharer must necessarily result in the breaking up of estates to a much greater extent than was now the case. It was also said that after the marriage the daughter's affections were all likely to be

centred on her husband's family and that the property would be lost to the family of her birth even where she had died without issue.

64. As regards the unmarried daughter, it is argued that there is no need to give her a share and that all that is necessary is to provide for her maintenance and marriage expenses, that she is bound, sooner or later, to be married at the family expense, and that after marriage, all the above argument against giving a share to the married daughter will apply to her also.

65. It was contended that, among Muslims, the results of the working of the Islamic Law which gives half a share to the daughter, would have led to disastrous results, but for the fact that that law allow agnatic cousins to marry and that Muslims are also able to tie up property in the family by making wakfs, a process which has been much facilitated by the Wakf Validation Act of 1913. Neither of these palliatives would be available to the Hindus.

66. All the above arguments have been effectively met. Mr. A. C. Gupta of Calcutta asked "What sort of affection is it that will be affected by putting this little strain on self-interest ? " and Sir P. S. Sivaswami Iyer of Madras said: "I do not think that when no share is given, there will be greater affection. No, that is not possible".

67. As regards the fragmentation argument, several witnesses pointed out that the evil should be met by other means, for example, the adoption of the rule primogeniture or collectivisation. Mr. A. C. Gupta's evidence on this point was as follows:

"Fragmentation can be stopped only by adopting the principle of primogeniture. Even when property is divided amongst sons, there is no guarantee that it will remain 'in the family'. Brothers may partition, they may sell. The economic arguments would be all right if there were a ban on partition and alienation, but there is no question of imposing such a ban. It is a most impracticable proposal."

68. When one witness (Mrs. Indrani Balasubramanian of Madras) was asked: "Do you think that the brother-in-law will bring discord into the family?", she said, "It depends upon the individual. If he is a bad fellow, he might give trouble even when there is no property. After all, he can ask for his wife's share only after the father's death, and where is the harm in such a demand being made? If the demand is made, it should be adjustified".

69. Many witnesses also pointed out with much force that daughters got a share all the world over and that *Yajnavalkya* and *Manu* themselves clearly provided a one-fourth share for the unmarried daughter. They contested the view that the smritis provide a share only in lieu of the marriage expenses of the daughter.

70. Some witnesses (for example, Pandit Subodh Chandra Lahiri of Benares) argued that if daughters were given a share, there would be a strong inducement to loafers to entice away Hindu women who have no sufficient protection. It was pointed out by one of us that the logical result of this argument would be the passing of a law that women should have no property. Few witnesses, of course, ventured to go to that length. In the main, they expressed a desire for the maintenance of the existing position.

71. Another argument against giving shares to daughters was advanced by Rai Bahadur Harish Chandra of Delhi who said that no father spent so much, (as would amount even to a one-fourth share) on the marriage of his daughter and that consequently there was no reason to give her

a share in the property. We should ourselves have thought that this argument would justify the allotment of a share to the daughter rather than the reverse. It is in evidence that among some communities in Gujarat more is spent on the son's marriage than on the daughter's. Bengal, on the other hand, appears to stand at the other extreme and far more is spent there on the daughter's marriage than on the son's. These are all local peculiarities which, in our opinion, may reasonably be disregarded. If no distinction is to be made between a married and an unmarried son in Gujarat where a son's marriage expenses bulk so large, we see no reason why a distinction should be drawn between a married and an unmarried daughter in Bengal or elsewhere where much money is spent on daughters' marriages. We are therefore of opinion that the daughter, whether married or unmarried, should participate in the inheritance to her father along with his sons and widow.

72. The question of the quantum of the share which should be allowed to the daughter has engaged our anxious attention. The one-fourth share provided in the *smritis* seems to be too small, even as a first step : in many cases, it will not amount to much. We note that Sir Vepa Ramesam (Retired Judge of the Madras High Court) would prefer to begin with the one-fourth share and raise it later, if experience proves that the dowry evil has been effectively reduced as a result of giving the daughter the one-fourth share. Most of the women witnesses consider it inequitable to deny to the daughter the same share as the son, but practically all of them accept the provision of half-a-share as a compromise. Some witnesses have suggested the giving of a full share in movable property and the giving of no share or a reduced share in immovable property. After full consideration, we consider that the half-share provided for the daughter in the Bill of the Hindu Law Committee of 1941, which has been endorsed by the Joint Select Committee of the Legislature, will be the best solution for the present, especially as we have retained the provision giving the daughter double the share of the son in the mother's property. We are aware that the Madras Nambudri Act of 1933 provides for a full share being given to the unmarried daughter. We feel that for the daughter who remains unmarried either from deliberate choice or out of necessity, half-a-share might be insufficient as a provision for life. It is, however, difficult to make a special provision for rare or exceptional cases and it is clearly not desirable to complicate the law by introducing too many distinctions.

73. We may here confess that we have found great difficulty in deciding who should be admitted as "simultaneous heirs" of a a male Hindu dying intestate. Before 1937, they comprised only the son, the son of a predeceased son, and the son of a predeceased son of a predeceased son of the intestate. The Deshmukh Act of 1937 (as subsequently amended) added to these the widows of the first two as well as the intestate's own widow. In the draft Code as published for criticism, we added the intestate's daughter, retained his widow, but left out the other widows. In favour of excluding the widowed daughter-in-law (and *a fortiori* the widowed grand-daughter-in-law) the following arguments have been adduced: (i) She is not an heir in most systems of inheritance. (ii) It is unnatural to postpone one's own daughter's son or other descendant or one's own father or mother, to a daughter-in-law who, after her husband's death, very often goes and lives with her parents in preference to her husband's parents. (iii) The daughter-in-law, even if a widow, will inherit to her father (assuming that the daughter is made a "simultaneous heir"), and it is unnecessary to make her an heir to her husband's father as well. On the contrary, it has been strongly urged (i) that if her husband had survived his father, he would have taken his share in the father's property which would then have devolved on her as his widow, that it is a mere accident that her husband did not survive his father and that her position should

not be worsened on this account; (ii) that *Viswarupa* gives her an equal place with the intestate's own widow, and that as regards other legal systems, the Parsis now recognize her as an heir; (iii) that the extension of the provisions of the 1937 legislation to agricultural land in many of the Provinces shows that provincial opinion is also now in her favour; and (iv) that what the Central and many Provincial Legislatures have deliberately chosen to give her should not be taken away by us.

74. We have considered and reconsidered the matter several times and we feel that on the whole, the best course is to add the daughter to the existing list of simultaneous heirs and make no other change in the list. The onus of excluding the widowed daughter-in-law should not, in our opinion, be assumed by us, especially when the Joint Select Committee, after a full consideration of the subject, has deliberately included her. We however consider that a widowed daughter-in-law should not be placed on a footing superior to the daughter's and we have accordingly proposed rules of distribution which secure this.

75. We claim no finality for our views, especially as one of us still feels strongly that the provision we have made is unfair, because it leads to a widowed daughter-in-law taking her father-in-law's property absolutely, in preference to his own daughter's son. The problem is undoubtedly a difficult and intricate one and the only way of avoiding injustice—which seems to be inevitable in particular cases, whatever the solution propounded—seems to be by making a free use of the testamentary power. The Legislature will no doubt ultimately decide this issue, with due regard to all the relevant considerations.

76. The addition of the daughter to the existing list of simultaneous heirs (that is to say, the list as extended by the Deshmukh) has necessitated a revision of the rules of distribution. The revised rules together with a number of illustrations will be found in clause 7 of Part II of the Code; we shall mention here only a few typical cases. Suppose a Hindu dies intestate leaving a widow, a son, and a daughter. Under the existing law, the widow and the son each take a half-share and the daughter nothing; under the Code the widow and the son would each take two-fifths and the daughter one-fifth. If the surviving relatives are a widow and a daughter, or a son and a daughter, then, under the existing law, the widow or the son takes the entire property to the exclusion of the daughter; under the Code, the widow or the son would take two-thirds and the daughter one-third. If the survivors are a son, a daughter, and a son's widow, the distribution under the existing law is that the son and the son's widow each take one-half and the daughter nothing, while under the Code, the son would take one-half and the son's widow and the daughter would each take one-fourth. If the survivors are only a daughter and a son's widow, the latter takes the whole property under the existing law; under the Code they each take one-half. We consider that the distribution we have proposed is fairer to the daughter, and if it gives less to the daughter-in-law than the existing law under the head of inheritance, we have redressed the balance by giving her more under the head of maintenance, for we have converted into a legal obligation the existing moral obligation of the father-in-law to maintain his son's widow. Moreover, the daughter-in-law will, under the Code, get a share of her father's property as well.

III.—*Absolute estate for women*

77. The main argument advanced in favour of limiting the estate of women is that they are incapable of managing property and that they are likely to be duped by designing male relatives. We are unable to accept this argument, particularly as it was not supported by concrete

instances. The daughter has an absolute estate in Bombay even now, and we have no reason to believe that she is exposed to any risk on this account, or that there is any difference in the quality of the management of properties by men and by women. On the other hand evidence was given before us that, in the case of some large estates,women have proved to be better managers than men.

78. It is true that at present women are more illiterate than men, but three men out of every four are even now illiterate and the relative advantage enjoyed by men in this respect is confined to a fraction of one-fourth of the population and does not appear to be large. It should also be remembered in this connection that the percentage of literate women is rising at a much faster rate than that of literate men. Besides, illiteracy is not in itself a proof of incompetence.

79. There was no great opposition to the daughter or the sister getting an absolute estate. The brunt of the opposition was to the widow getting an absolute estate. The case for the widow was put with great force by Principal Anand of Lahore

"Her claims are always superior to those of a son. From the time of their marriage, she has been connected with the husband and has shared in his joys and sorrows, and would have rendered a far greater measure of service to the husband." We agree with the above view and are not convinced that a case for limiting the estate of the widow has been made out. The reasons given in the Statement of Objects and Reasons to the Intestate Succession Bill prepared by the Hindu Law Committee of 1941 (See Appendix IV) in favour of enlarging the estate of the widow to an absolute estate seem to us to be strong and sufficient. In deference to some of the evidence tenderd before us and the wishes expressed by certain witnesses, we have carefully considered whether the widow's estate should be limited in any case, for example, where the husband has left a descendant. There seemed to us to be no need to make any such differentiation. It is open to the husband to restrict his wife's right, if he wishes to do so. And where he has not chosen to do so, we do not see why the law should interpose any limitation. A widow with children or grand-children is hardly likely to give her property away to a stranger. The balance of advantage clearly lies in making the law as simple as possible.

IV.—*Monogamy*

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80. The weight of the evidence, written and oral, adduced before us was preponderantly in favour of monogamy, although certain eminent witnesses like Sir P. S. Sivaswami Iyer of Madras and Sir Bhavanishankar Niyogi of Nagpur doubted its necessity. The arguments advanced against making monogamy a rule of law were as follows:—

(i) Monogamy is even now the rule in practice and consequently no law is necessary.

(ii) If monogamy were enforced by the law for Hindus, it may drive many of them to Islam which allows four wives.

(iii) Among persons carrying on certain occupations, for example, weavers and cultivators, necessity is often felt for taking a second wife in order that the occupations may be carried on efficiently.

(iv) Monogamy will not work without divorce, and divorce is deeply opposed to Hindu sentiment.

(v) The ancient authorities permit a man to take a second wife in stated circumstances, for example, when the first wife is barren, diseased or vicious, and there is no reason to deprive men of a liberty which is now enjoyed by them. As one witness put it "Why should men be deprived of a vested right which has been enjoyed by them for 3000 years?"

(vi) Insistence on monogamy will only lead to increased concubinage.

81. We consider that there is not much force in the above arguments and that the time has now come to remove a long-standing grievance and do justice to the mothers of the race by prescribing monogamy as a rule of law, Certainly, we cannot agree with the view rather lightheartedly expressed by one witness "If a man is healthy and wealthy, he should be allowed to marry again." Orthodox opinion is clear that a man who marries a second wife when his first wife fulfils all the conditions required of a *dharmapatni* commits a sin and should be punished. Pandit Thethiyur Subrahmanya Sastri of Madras pointed out : "There can be only one *dharmapatni*. If a man marries a second wife, when his first wife has all the qualifications mentioned in *Yajnavalkya,* he should be punished."

82. If monogamy is already the rule in practice, there can be no hardship in translating it into a rule of law now. The Rt. Hon. Srinivasa Sastri dealt with this point eloquently in his evidence:

> "I thought that the pride of Hinduism was that although polygamy was permitted in theory, it was monogamy which was actually practised. It is therefore surprising that when monogamy is sought to be enacted as a rule of law, hands should be raised in horror."

83. The apprehension that Hindus will become Muslims to enjoy the doubtful benefits of polygamy is fantastic in the extreme. When this point was put to a Madras witness (Mrs. Ambujammal), she neatly countered it by answering as follows: "I would answer that if monogamy were not enforced, Hindu women might turn Christians to secure the benefit of monogamy! But I do not think that either view is justified." There is absolutely no evidence, that men in communities which are now monogamous, for instance, Christians, change their faith to secure the benefits of polygamy, although one witness in his argumentative zeal said that Christians might not become converts to Islam, but that Hindus might, and another went to the extent of contending that Hinduism would die out if monogamy were to be enforced among the Hindus alone. To those who feel genuine apprehensions on this ground, we may point to the case of Malabar where monogamy was enforced for certain communities about fourteen years ago by an Act of the Madras Legislature, the Madras Marumakkattayam Act. The Government Pleader, and the Crown Prosecutor, of the Madras Government, both of whom belong to a community governed by that legislation, were emphatic that the legislation has not led to any conversions to Islam and that it has worked very well.

84. There is no substantial evidence that weavers or cultivators or any other class practise polygamy systematically for the more efficient carrying on of their occupations. On the contrary, social surveys, where they have actually taken place, seem to show that monogamy prevails very largely among all communities.

85. The question of divorce should not be mixed up with that of monogamy. The two questions should be kept distinct. It is possible to have monogamy without divorce (as in Catholic countries), and there were many witnesses, both among men and among women, who did not favour divorce, but yet wanted monogamy to be made a rule of law. In fact, this corresponds to the position now occupied by Hindu women, and these witnesses therefore only wanted Hindu men to be put in the same position as Hindu women.

86. The conditions on which a second wife was permitted to be taken in the ancient *smritis* are few, and there seems to be no necessity for keeping these somewhat archaic rules alive at the present day. If a wife is childless, the husband may avail himself of the right of adopting a son and from the religion point of view a *dattaka* son is as efficacious as an *aurasa* son. Besides, without an actual medical examination, it will be impossible to say whether the failure of a marriage to result in children is due to the fault or defect of the man or of the women, and most witnesses felt that it would be unseemly to provide for such an examination. Some witnesses who at first wanted exceptions to be made, ultimately agreed that it was simpler and more acceptable to provide for monogamy absolutely and without exceptions, as they were satisfied that it would be very difficult to ensure the satisfactory fulfilment of the conditions subject to which alone they wanted the exceptions to operate.

87. The problem of illicit relationship by way of concubinage is an entirely separate one. We do not think that concubinage will increase by reason of the provision for monogamy. The type of woman who will agree to become a concubine is not the type to whom marriage, albeit a second marriage, is likely to be offered.

88. We do not think that this matter should be left to Hindu society to take care of as suggested by certain witnesses. There is evidence that the control of society is becoming looser, rather than tighter. Rao Bahadur V. V. Ramaswamy of Madras pointed out that in his community (the Nadars), at one time, breach of monogamy was punished by excommunication but that the practice has now fallen into disuse and consequently that second marriages are contracted for flimsy reasons.

89. We have thus examined the main arguments urged against monogamy and shown why, in our opinion, they are not acceptable to us. We are not convinced that either a provision permitting a second marriage with the consent of the first wife or one enabling the first wife to obtain a divorce when the husband takes a second wife will work satisfactorily. As to the first suggestion, it was frankly conceded before us that the wife's consent would not be a sufficient safeguard, and once witness rather naively said that that was why he suggested it! We were more attracted by the second suggestion but in practice it would amount to divorce by mere mutual consent: the husband has only to find another wife.

90. We have accordingly retained the provision for monogamy in the draft Code. It will prevent the husband from deserting the wife at will and contracting a second marriage. There is a substantial body of evidence before us that cases of desertion and remarriage are increasing, and this problem is best solved by enacting monogamy as a rule of law.

91. We should like to add that a strong practical argument in favour of monogamy is the force of world opinion. The point is brought out clearly in the evidence of the Rt. Hon. Srinivasa Sastri: "As one who has travelled outside India, I can say that many Christian people have denied to our *vivaha* the sancity which we have always attached to it. In South Africa, for instance, they thought that our women were not legally married as our system permitted polygamy which their law would not recognise."

92. As we have already pointed out, our view that monogamy should be enforced by law has been accepted in Bombay where legislation for preventing polygamy among Hindus was recently placed on the statute book.

V.—Divorce

93. Opposition to the provision for divorce was expressed in very vigorous terms in many quarters and there is no doubt that Hindu sentiment is much exercised over the matter. Sir N. N. Sircar told us that the vast majority of Hindus have a deep-rooted sentiment against it. Orthodox witnesses contended before us that marriage is an *adhyatmic sambandha* which is not only for this world but also for the next, and consequently that a woman should not be permitted to remarry after divorcing her husband. But this view will prevent even a Hindu widow from remarrying, and few witnesses wished to carry matters to this extreme, though logical, conclusion. Remarriage of Hindu widows was legalised ninety years ago.

94. It is clear that the texts of Narada, Parasara and Devala permit divorce in certain circumstances. We are unable to accept the view that these texts refer only to cases of betrothal (*vagdana*) and not to cases of a completed legal marriage or *kanyadana*. Nor can we endorse the view that the texts apply only to unapproved marriages or to *niyoga* connections. Orthodox opinion considers that the texts are *nishiddha achara* in the present age (*kaliyuga*) but this seems to us only another way of saying that divorce is not now prevalent, among the higher castes.

95. There are however many Hindu communities, particularly in the lower social strata, in which divorce does prevail even now as a custom. A witness from Orissa said that in his Province, divorce prevails by way of custom except among the highest castes. Another witness, from Bihar, said that of a total Hindu population of 32·2 millions in that Province, only 4 million belonged to the highest castes and that the marriage tie sat rather loosely on the remaining 28·2 millions and that there was a valid custom of divorce among the lower strata. Although, therefore, a Hindu marriage is in theory a sacrament, in practice, it is even now regarded among large sections of the community as dissoluble. The statement that divorce is an idea which is absolutely foreign to the Hindu Law cannot therefore be accepted as correct. Even among the higher castes, where at present Hindu Law does not permit divorce, the practice of circumventing the law is becoming increasingly frequent : one of the parties becomes a convert to Christianity or Islam and by a procedure well-known to lawyers obtains a divorce, after which he or she gets reconverted to Hinduism. But this technique is not available to those who are too honest to change their faith even temporarily, however deserving their case may be, while it is available to others, however undeserving.

96. The hardship arising from the existing law is undeniably great and several attempts have been made in the past to alleviate it. Mr. Bhogilal D. Lala, M.L.A., of Bombay, introduced a Bill in the Bombay Legislative Assembly, Bill No. 41/1938, for this purpose; and Mrs. Radhabai Subbarayan also gave notice of a similar measure for introduction in the last Indian Legislative Assembly.

97. In Bombay, when the Bill for enforcing monogamy was being passed through the Legislature of the Province recently, the Minister concerned recognised that a Divorce Bill was a necessary corollary. Such a Bill has already been published in the Bombay Government Gazette.

98. From the evidence adduced before us, we are satisfied that there are thousands of women in British India who have been deserted by their husbands. The visits which some of us made to certain Rescue and Destitute Women's Homes both in Calcutta and Madras and advertisements frequently appearing in newspapers, especially in the Bombay Presidency, fortify this conclusion. Sir M. Bhavanishankar Niyogi of Nagpur in his evidence

referred to many cases in which the need for relief was a very pressing one. Desertion cases do not appear to be less common amongst Hindus than amongst other communities. A Calcutta Women's deputation representing the All-India Women's Conference and other Women's Associations, after mentioning several actual cases of desertion and remarriage, went on to say:

> "These cases are not so rare as is sometimes imagined; they occur among orthodox middle-class families. We can give names and details, if necessary. If the cases are rare, so will divorce be. Unless there is great hardship, why should women, particularly Hindu women, seek divorce?"

Many hard cases were also brought to our notice by other witnesses in which remarriage was both desired and possible but could not be effected by reason of the existing law. The number of these cases may not be relatively large and, reckoned in terms of percentages, the problem may not appear to be a formidable one. But, as we have already stated, there are thousands of such cases in India and if even a small proportion of these women desire a divorce with a view to getting themselves remarried, the question is whether the law should say them 'Nay'. Evidence was let in before us that in many cases remarriage is quietly celebrated and that society tolerates and recognizes such remarriages. Sri V. Venkatarama Sastry of Bezwada in the course of his evidence said:

> "I am personally aware of three cases in which parents have had their daughters 'remarried' after obtaining a letter of release from the former husband who had deserted her. Divorce being impossible in such cases, this is what is done. To the second marriage, friends are invited. These cases are among the Kamma or cultivator class, claiming to be Kshatriyas but often regarded as Vaishyas. They are the highest non-Brahman caste, and divorce does not prevail among them."

99. We may note here that Judge Parry has mentioned that even so late as 1875, there obtained among the lower classes in England a similar practice of obtaining written releases from the husbands and regarding the marriage tie as thereafter dissolved. Apparently the persons concerned were not aware of the illegality of the practice. It is obvious that the validity of the marriages referred to by the Bezwada witness must be regarded as open to question; and we see no reason, why the law should not be suitably altered so as to provide for divorce and remarriage in such cases. Where a marriage has in fact ceased to exist by the husband having deserted his wife for a number of years and the husband has thus ignored his sacramental obligation, we consider that the wife should not be prevented from starting life afresh, if she wishes to do so. It seems to us that it will be cruel in the extreme to deny this measure of relief to the deserted wife. We must not any longer shut our eyes to inconvenient facts. On the other hand, it is the duty of the community to devise some remedy for a social evil.

100. Some witnesses have said that the suffering involved should be borne patiently by the deserted wives as inevitable in the larger interests of the community. But, curiously enough, these witnesses refuse to apply their prescription of patient suffering to men, for they wish men to be at liberty to remarry in such cases.

101. It was urged by some that these unfortunate women should betake themselves to social work and maintain themselves by nursing, teaching, and so on. But not all the deserted wives may have a gift or call in any such direction and some may prefer to marry again and we see no reason why they should be prohibited from doing so. We are satisfied that far from injuring Hindu society, the provision for divorce which we are now including will be found to be socially healthy and beneficial.

We would draw attention in this connection to the evidence of Sir N. N. Sircar that a provision for divorce will lead to the better treatment of wives.

102. Cases of desertion are the most frequent and we have therefore dealt with it at some length above. As regards the other grounds, we have no hesitation in making ground (d) (either party ceasing to be a Hindu by conversion to another religion) and ground (f) (keeping a concubine or becoming the concubine of another person or a prostitute) applicable to the case of sacramental marriages also. As regards the former, we wish to emphasize that under our proposals, the party abandoning the Hindu religion will not be entitled to ask for a divorce on that ground, and that it is left to the party who remains a Hindu to choose to ask for a divorce or not. A change of religion is not inconsistent with the continuance of conjugal love and we consider that it should not be permissible for a party to a marriage to get a divorce by the simple expedient of changing his or her religion. As already pointed out, cases where the wife resorts to conversion to Islam or Christianity merely in order to secure release from her marriage tie are increasing in number. We agree with the witness who said that the sooner the practice is stopped, of having to change one's religion merely in order to get a divorce, the better it will be for all concerned.

103. Where a wife becomes a concubine of another man or leads a prostitute's life-ground (f)—it is clear that the sacramental tie has ceased to exist and that it will be a mockery to provide for its obligatory continuance as a matter of law. We therefore consider that this should be a valid ground for divorce.

104. As regards a man's keeping a concubine, there was some difference of opinion among witnesses and many seem to consider it an inadequate ground unless it is aggravated by other facts, for example where the concubine is actually brought into the house. We do not, however, agree with this view. As far as possible the law should operate equally between man and woman, and public opinion will not, in our opinion, tolerate differential standards in this respect at the present day. But we are satisfied that very few Hindu wives will seek a divorce where there is nothing else against the husband, except that he keeps a concubine. Even in countries where divorce is now allowed merely on the ground of adultery, women care a good deal for outward appearances and do not advertise their husband's infidelity by seeking a divorce, especially when there are children of the marriage.

105. As regards the remaining grounds for divorce, *viz.*, insanity, leprosy and venereal disease—grounds (a), (b) and (e)—we have carefully considered whether they should be made inapplicable to sacramental marriages in view of the evidence given by some witnesses that the union between a Hindu husband and his wife is not for pleasure alone and consequently that in cases like these, the balance of advantage lies in maintaining, rather than in providing for the dissolution of, the marriage. We however disagree with this view and feel that there is no need to maintain any distinction between civil and sacramental marriages in regard to this matter, as the same human considerations apply to both.

106. After giving our most careful cosideration to the whole matter, we are clearly of the opinion that the provisions for divorce contained in the draft Code as published should be retained and that they should apply not only to civil, but also to sacramental marriages.

107. We have next to consider whether any alterations or additions in these provisions are required. The period of 7 years referred to in grounds (a), (c) and (d) (leprosy, desertion and venereal disease) has been objected

to as being too long. Many witnesses have suggested a reduction of the period to 3 years, while others were for reducing it to 5 years. We think, on the whole, that a reduction of the period to 5 years cannot be regarded as unreasonable, especially as the proceedings themselves will take some time.

108. The following additional grounds for divorce were suggested:—

(i) cruelty, or at least such cruelty as endangers life,

(ii) disappearance of either husband or wife for seven years without anything having been heard from him or her,

(iii) the husband having become an ascetic,

(iv) adultery by husband or wife,

(v) incompatibility of temperament between husband and wife.

Cases (ii) and (iii) above are really forms of desertion and need not in our opinion, be separately provided for. We consider that there should be no divorce merely on the ground of the husband or wife having committed adultery or on the ground of incompatibility of temperament between the two. As regards cruelty, when it is of a flagrant character, that is, when it is such as to endanger personal safety, we consider it desirable to add it to the grounds for divorce. The addition has been suggested to us by many witnesses, especially women, and seems to us to be reasonable and necessary.

109. The fact that provisions have been included in the Code for divorce in the case of sacramental marriages in certain circumstances does not, of course, mean that the provisions will be resorted to or that there will be spate of applications for divorce immediately the Code is passed. As well pointed out by a witness, Hindus, and more especially Hindu women, are very conservative by temperament and they are not likely to resort to divorce, except when there are the strongest grounds. Divorce is very rare even now among Indian Christians. Divorce was allowed to certain Hindus of Malabar by Madras Act XXI of 1933: Either party to a Malabar or Marumakkattayam marriage may get rid of the tie by simply filing before a Court an application for the dissolution of the marriage. But witnesses belonging to the communities governed by that Act, of unimpeachable credit and authority, have pointed out to us that the number of cases in which this provision for divorce was utilised was negligible. Mr. Kutti Krishna Menon, Government Pleader, Madras said :

"Although under the Act, divorce can be secured by an instrument of dissolution executed by the parties or on a mere application to the Court by one of the parties, yet, there are very few divorces in practice. If the freedom allowed is genuine, the parties feel their responsibility all the more."

Mr. Govinda Menon, Crown Prosecutor, Madras, gave evidence to the same effect:

"I can speak with intimate knowledge of Malabar. Monogamy has worked very well in that district. Similar legislation has been in force in Travancore and Cochin for a much longer period and even there, divorce among Hindus is very unusual. Travancore and Cochin, both, had monogamy and divorce earlier than British Malabar. Even among Christians in Malabar, there have been comparatively few divorces."

110. The experience of Baroda where a law of divorce has been in operation for many years is practically the same, as the following extract from the Baroda Administration Report for 1941-42 will show:—

"*Hindu Divorce Law.*—Hindu Law does not allow divorce except in certain communities where it is permitted by custom. To remove the disability in this respect of the remaining castes, the Hindu Divorce Act was passed in 1931. Provision has been made in the law for

- (i) divorce,
- (ii) judicial separation,
- (iii) separate residence,
- (iv) nullity of marriage, and
- (v) restitution of conjugal rights.

The grounds on which relief can be sought are cruelty, desertion, adultery, drunkenness, impotency and incompatibility of temperament. Relief on these grounds is available to all Hindus.

The following figures show the extent to which advantage was taken of this law:—

	Suits for					
Year	Divorce	Judical separation	Separate residence	Nullity of Marriage	Restitution of conjugal rights	Suits by persons in whose caste divorce is not allowed by custom
1942-43 . . .	40	2	1	..	..	..
1941-42 . . .	37	2	2	1	..	3
1940-41 . . .	32	1	1	3	..	6
1939-40 . . .	44	3	..	1	2	6
1938-39 . . .	38	3	1	..	..	6
1937-38 . . .	45	1	2	..	3	5
1936-37 . . .	44	4	..	..	3	4
1935-36 . . .	30	5	..	..	4	3
1934-35 . . .	45	..	..	..	6	1
1933-34 . . .	58	1	1	..	4	1
1932-33 . . .	29	3	..	..	8	1
1931-32 . . .	35	4	..	..	8	1

The number of suits by persons belonging to castes in which custom does not allow divorce was three this year which is the same as last year.

Nature of suits filed.—The following table shows the grounds on which relief was claimed and the relief sought in suits filed under the law during the year under report:—

Relief sought	No of suits	Grounds
Divorce . . .	5	Cruelty by husband
	19	Cruelty and desertion by husband
	0	Cruelty, desertion and habitual drunkenness of husband
	1	Cruelty, desertion and husband taking another wife
	0	Cruelty and false charge of unchastity
	7	Desertion by husband
	1	Impotency of husband
	2	Cruelty and desertion by wife
	1	Misbehaviour and desertion by wife
	0	Loose character and unnecessary harassment by wife
	4	Desertion by wife
	40	
Judicial separation . .	0	Cruelty and desertion by husband
	2	Desertion and the husband taking another wife
	2	
Separate residence . .	0	Cruelty and desertion by husband.
	1	Cruelty, desertion and the husband taking another wife
	1	
Nullity of marriage . .	0	Concealing the fact of having a former wife at the time of marriage
Grand Total .	43	

NOTE.—The main grounds on which divorce is sought are cruelty and desertion.

Details of suits by higher castes.—Of the suits filed under the law during the year, in three, the parties belonged to castes in which custom does not allow divorce. In one of them, a Bania woman sued her husband for divorce on the ground of desertion. In the second, a Brahmin woman sued her husband for *separate* residence on the ground of cruelty and desertion. The third suit was by one Anavil Brahmin who sued his wife for divorce on the ground of desertion. Of these three suits, two were compromised and the third is pending."

111. In view of what we have said above, we are confident that the provisions we have suggested will only give relief in hard cases and will not be abused. They steer a middle course. They do not make divorce too easy. Nor do they make divorce impossible.

112. We wish to emphasize once more that the provisions are purely enabling ones and that there is absolutely nothing to compel a woman to

sue for divorce if she does not want to do so. We are satisfied that, in practice, it will be resorted to very seldom.

113. We should like to say here that our intention is that our recommendation in favour of enacting monogamy as a rule of law should stand, even though no divorce is provided. One witness said that monogamy without divorce would be like a still-born child. We do not share this view. Many Catholic countries have monogamy without divorce. Again, Hindu women are now bound by the rule of monogamy, although they are not entitled to divorce except where their communities allow it. It is not after all unreasonable to require that men should be subjected to the same rules and restrictions as women are at present.

114. The proviso to Clause 29(1) of Part IV of the Draft Code as published for criticism in 1944, provided that the Court shall dismiss a petition for nullity in all the cases referred to in that clause, if the petition is presented more than three years after the celebration of the marriage. This will, in effect, make the marriage voidable in all such cases. But where the marriage is a bigamous one or where the parties are within the prohibited degrees of relationship, it is clear that the failure of the parties to present the petition within three years should not have the effect of converting the marriage into a valid one. We have therefore drawn a distinction between marriages which are "null and void" and those which are merely "invalid", and have applied the provision for a time limit only to the latter class of marriages.

VI.—Minor Points

115. We now proceed to deal with some of the other points which have been raised before us.

116. *Part I, Clause* 5(i), *Definition of 'related'*.—It was pointed out to us that to confine relationship to legitimate kinship might prevent a *naikin's* property from passing to her son or daughter and also that there was no reason why her children should not have mutual rights of inheritance. We consider that this criticism is justified and have expanded the definition of 'related' suitably to cover the cases in question.

117. *Part II. Clause* 5(1). *Son's daughter and daughter's daughter.*—We have improved the position of these heirs. They will take, immediately after the last of the heirs in the compact series, instead of after the father's father as under the existing law (Act II of 1929).

118. *Part II. Clause* 5(1). *Clauses IV, V and VI.*—On the analogy of Class III as amended by the Joint Select Committee, which has made the brother's daughter and the sister's daughter heirs next after the sister and the sister's son, we have, in Class IV, made the father's brother's daughter and the father's sister's daughter heirs next after the father's sister and the father's sister's son. We have made similar additions in Clauses V and VI also.

119. *Part II. Clause* 5(2).—*Widows of Gotraja Sapindas.*—Many Witnesses in Bombay wished us to retain the provision in the Bombay law which gives a place to the widows of *gotraja sapindas* in the line of heirs. They regard the removal of these widows from the list of heirs as a retrograde step. We have now included the widowed daughter-in-law and grand-daughter-in-law as heirs for all Provinces. But this will not be enough to satisfy the critics in Bombay. We have therefore inserted a new provision giving the widows of the *gotraja sapindas* mentioned in Clause 5(1) a right of inheritance which will place them, as far as possible, in the same position as they now occupy in the Bombay Presidency. We recognize that this constitutes a departure from the principle, of uniformity. But we

are satisfied that the departure is not serious and may be made in view of the strong local sentiment felt in Bombay in this matter. Here, again, we have no doubt that the Legislature will carefully consider what should ultimately be done.

120. *Part II. Clauses* 10 *and* 11. *Succession of Acharyas, etc.*—Some opposition was expressed to these two clauses. Clause 10 provides for the succession of the *acharya, sishya,* etc., in the absence of heirs who are not related by blood, and clause 11 lays down special rules for the devolution of the property of hermits, ascetics, etc. The clauses are based on the rules of the existing Hindu Law and do not appear to have led to any difficulties in practice. The cases are very rare and we consider that the clauses may be retained. We have, however, added an Explanation to clause 10 making it clear that when construing the terms '*acharya*' '*sishya*', etc., it is the imparting, or the receiving, of religious instruction which should be taken into account and that such instruction should have been imported or received at the *acharya's* house.

121. *Part II. Clause* 21. *Convert's Position.*—It was urged with considerable force, and almost with unanimity, that not only the convert's descendants, but the convert himself, should be disqualified from inheriting the property of his Hindu relatives. The present position is otherwise and is, the result of the Caste Disabilities Removal Act which has been law for over ninety years. The Legislature will no doubt consider the matter.

122. At least one of us may here be permitted to express a personal view. Hinduism has been described, and rightly, to be not so much a religion as a League of Religions, with toleration for every faith as its ennobling characteristic. To punish a man for choosing to worship God in one way rather than another would be a retrograde step opposed to the true spirit of Hinduism and now that Hindus too admit converts and re-converts to the Hindu faith, a tax on freedom of religion is of dubious value to the Hindu community.

123. It was also urged that colourable reconversions merely for the sake of getting the inheritance of a Hindu relative should be prevented, by insisting on a rule to the effect that the reconvert should not only have come back to his original faith but retained it for a specified number of years. We are not greatly impressed by these fears. Clause 21 lays down that the heir should be a Hindu *when* the succession opens. Reconversion after the succession opens will not, therefore, be possible. This restriction will, in most cases, remove any danger of abuse of the provision contained in the clause. Where a reconvert claims the inheritance, the genuineness of the conversion will no doubt be considered by the Court.

124. There is, however, one anomaly which we consider should be removed by a suitable amendment of the Caste Disabilities Removal Act. That Act, while making the convert eligible to inherit to relatives who continue to retain the original faith, does not make those relatives eligible to inherit to the convert, if the law governing the latter disables them from doing so. Thus, if A, a Hindu, becomes a Muslim, he is entitled to inherit to his Hindu brother B, but B, is not eligible to inherit to A, as Muslim Law disqualifies B. We recommend that this anomaly should be removed.

125. *Part II.—Clause* 25—*Escheat.*—There is quite a considerable body of testimony in favour of modifying clause 25 of Part II, so as to provide that the property should not go to the State but to Hindu religious institutions or alternatively, that the Crown should continue to take by escheat but subject to an obligation to devote the property only to purposes which are beneficial to Hindus. We are averse to laying down any statutory restrictions on the discretion of the Crown in this matter, and have no

doubt that the Government of the day will respect the sentiment of the people affected, *viz.*, that Hindu property which escheats to the Crown should be devoted only to Hindu purposes.

126. *Section* 141 *of the Indian Succession Act.*—By virtue of Section 141 of the Indian Succession Act, 1925 (XXXIX of 1925), a legacy bequeathed to a person who is named an executor falls, unless he manifests an intention to act as an executory. A reecnt decision of the Madras High Court [I.L.R. (1944), Mad. 821, *Rajam* v. *Pankajam Ammal*] has held that this section will apply, although there may be a very clear indication in the will itself that the legacy should stand even though the devisee declines to act as executer. We consider that this is clearly unjust. Section 141 applies not only to Hindus but also to other communities and we do not, therefore, wish to incorporate any amendment to section 141 in the Code, but suggest instead that the question of incorporating the necessary amendment in the Succession Act itself may be taken up by the Government separately, so that it may apply to all the communities to which the section now applies. This can be accomplished by a short amending Bill. The course suggested by us will have the further advantage of bringing this particular amendment into force from a much earlier date than might otherwise be the case.

127. *Part IIIA.—Clause* 5(2).—Maintenance of Concubines. There was some opposition to the granting of rights of maintenance to a concubine on the ground that it would encourage immorality. This objection was expressed among others by Sir Harshadbhai Divatia and the Bombay Presidency Women's Council. The Gujarati Stri Mandal, on the other hand, was in favour of retaining the provision. We consider that the best defence of the existing provision is contained in the following remarks made by the Right Hon'ble M. R. Jayakar in the course of the examination of a witness at Poona:—

> "The provision only relates to a concubine who has been in the exclusive keeping of the deceased until his death. The concubine's position until the man died would be very precarious, as he could discard her at any time and if he did so, she would not get any maintenance. No woman would, therefore, agree to become a concubine by reason of the provision made in draft Code for the maintenance of concumbines. It would be no inducement at all. That is the effect of the provision. It cannot be said to be unreasonable."

We would, therefore, leave this matter as it is.

128. In a recent Full Bench decision of the Bombay High Court [I. L. R. (1945) Bombay 216, *Akku Prahlad* v. *Ganesh Prahlad*], it has been held that even though a connection with a concubine might be adulterous, it does not disentitle her to maintenance. Some witnesses in Poona, relying on this decision, contended that the proviso to clause 5(2), should be omitted. We consider that where a connection is adulterous or incestuous, the concubine should not have any rights of maintenance, although she may satisfy the other conditions laid down in the clause. Her children will, of course, be entitled to maintenance until they attain majority or get married, as the case may be.

129. *Part IV.—Inclusion in the Code of Provisions regarding Civil Marriages.*—There were loud protests from certain quarters that the provisions relating to civil marriage should not be included in the Code and that they should be incorporated in a separate enactment. At the same time, much anxiety was displayed that as many persons as possible should remain Hindus and that no one should needlessly be driven out of the fold. The desirability was stressed of having some provisions which will permit of a Hindu marrying a non-Hindu while continuing to remain a

Hindu himself or herself. We invite attention, in this connection, to the following extract from the record of the examination of Poona of Mr. Chapekar of the Dharma Nirnaya Mandal :

"*Part IV.—Clause 7, etc.—Witness.*—I do not like the civil marriage provisions.

Dr. Jayakar.—If a Hindu marries under Act III of 1872 the Indian Succesion Act applies, and not the Hindu Law, and the parties virtually cease to be Hindus. Is that a desirable position?

Witness.—I agree that the provisions regarding civil marriages might remain in the Code, as that will have the effect of preventing Hindus from leaving the Hindu fold".

We consider that there is no substance in the objection that the provisions relating to civil marriages should not be made in the Code itself but in a separate enactment. It must be remembered that the Code is not only for the orthodox Hindu but also for Hindus who have deviated, in greater or smaller measure, from present standards of orthodoxy. These standards themselves are constantly fluctuating, and many things which could not be done in former days are tolerated, if not encouraged, at the present day. The changed social outlook to sea voyage and interdining clearly shows this. Hindus who favour the civil form of marriage for any purpose should not have to look to some other enactment. We are unable to subscribe to the view that there will be a sort of sacrilege or profanation in the same Code of law making provision not only for sacramental, but also for civil, marriages.

130. *Part IV.—Inter-Caste, Sagotra and Sapravara Marriages.*—The question at issue here really lies in a very narrow compass, *viz.*, whether these marriages should take place only in the civil form or whether they may also be permitted to take place in the sacramental form. Orthodox opinion is strongly opposed to the latter suggestion. But the provision made in the Code is a purely enabling one and reformers contend with much force that it should remain, as it is unjust that the views of the orthodox should be imposed on them by legislative enactment. They urge that it is not fair to deprive them of the benefit of the customary form of marriage ceremony merely because they believe that the caste system has outlived its usefulness and is hampering progress and consequently that caste restrictions should be discarded in marriage.

131. The Code lays no compulsion whatever on the orthodox, and they are entirely at liberty to adhere to all the restrictions to which they are now subject. That being so, we consider that it is undesirable to drive reformers to the civil ceremony even in cases where they wish to perform the marriage in the sacramental or customary form. It is indisputable that marriages between persons of different castes were prevalent in the ancient days, and there is no reason why those who want to revive the old practices should be denied freedom to do so. The principle of Dr. Deshmukh's Bill removing doubts as to the validity of *sagotra* and *sparavara* marriages was accepted by a majority of the Hindu members of the last Indian Legislative Assembly in March 1945, and passed into law without a division by the present Assembly in November 1946.

132. It is not likely that many inter-caste or even *sagotra* marriages will be celebrated in the near future. The existing law permits of marriages between persons of different sub-castes but belonging to the same main caste. Such marriages, however, take place but seldom. Marriages between members of different main castes will for a long time be a rarer phenomenon still. There may possibly be an increasing tendency in favour of such marriages but this fact by itself is not, of course, sufficient to invalidate them by law.

133. The weight of evidence favoured the simple removal of the conditions making identity of castes and diversity of *gotras* and *pravaras* essential for the validity of a marriage, rather than the alternative set of clauses in Part IV which provided for the validation of inter-caste, *sagotra* and *sapravara* marriages, after they had actually taken place by the application of the principle of *factum valet*. The feeling was general that if the existing restrictions are to be removed, it is better to remove them openly and frankly. We agree with this view and accordingly propose to retain the first set of clauses and omit the second. The alternative which we have discarded would have cast a slur on millions of Hindus.

134. *Prohibited degrees of relationship.*—There is a strong feeling that the children of two sisters should be prohibited from marrying. We have enlarged the definition of prohibited degrees of relationship in Part IV of the Code, so as to cover this case also.

135. *Limits of Sapinda Relationship.*—There is a substantial body of evidence for relaxing the limits of *sapinda* relationship from seven and five degrees to five and three degrees respectively, or even to three degrees on both sides. In most communities, the strict rule prohibiting marriages within the limit of *sapinda* relationship as defined in the *smritis*. (7 and 5 degrees) has been considerably relaxed by custom. We are inclined to agree that the limits may well be reduced from seven and five degrees to five and three respectively.

136. *Registration of Marriages.*—Many witnesses consider that provision should be made for the compulsory registration of all Hindu marriages, including those taking place in the sacramental form. We consider that the provision made by us for the optional registration of such marriages (Clause 6 of Part IV) will be sufficient for the present. The question of making the registration of such marriages compulsory may be considered later, after some experience has been gained of the working of the provision we propose.

137. *Registrar to be a Hindu.*—The All-India Varnashrama Swarajya Sangha has urged that the Registrar of Hindu marriages should be a Hindu. We accept this suggestion and have made the necessary amendment in the Draft Code—clause 8(1) of Part IV. We trust that there will be no practical difficulty in giving effect to it.

138. *Clause 28.—(Dowry to be trust property).*—Some witnesses felt that this clause would not be effective. Others contended that the trust should ensure not only in favour of the wife, but jointly in favour of the husband and the wife. On the whole, we consider that there is no justification for this change and recommend that the clause may stand as it is. Even if it is ineffective, it will do no harm; but if, as we hope, it is effective at least in part, Hindu society will be considerably benefitted.

139. *Sarda Act.*—Many witnesses complained to us that the Child Marriage Restraint Act 1929 (XIX of 1929), commonly known as the Sarda Act, has not succeeded in preventing child marriages altogether among Hindus and that there was consequently need for strengthening the provisions of that Act and making it more effective in practice. The suggestion was also made to us that a marriage in contravention of the Sarda Act should be made voidable at the instance of the minor wife or her guardian. According to the evidence before us, in certain areas, the provisions of the Sarda Act seem to be violated in a fairly large number of cases. We doubt, however, whether we shall be justified in inserting a provision in the Hindu Code on the lines suggested. The Sarda Act is a general measure and applies not only to Hindus but also to Muslims, Christians and others. We consider that any amendments designed to make that Act more

effective should be embodied in it rather than in Hindu Code. We recommend that the results of the working of that Act not only in the Hindu community, but also in the other communities concerned, and the wishes of the members of all the communities in regard to amendments of the nature suggested, may be ascertained.

140. *Part V.—(Minority and Guardianship).*—The provisions of clauses 6 and 10 of Part V, of the Code were criticised on the ground that they unduly limit the powers of natural and *de facto* guardians and will not really benefit minors. We are not impressed with these criticisms and have not, therefore, made any change in these clauses.

141. We have, however, added a paragraph to clause 3 of Part V saving the jurisdiction of the High Court to appoint a guardian even in respect of the undivided interest of a minor in joint family property. This is in accordance with the view taken by the Bombay High Court.

142. *Part VI.—Adoption.*—We have made the following changes in this Part :

(i) *Clause* 5.—The age of the adopter has been raised from 15 to 18 in the case of both men and women.

(ii) It has been provided that a son should not be adopted by a husband whose wife is alive, without her consent, or where he has more than one wife, of one of such wives.

(iii) Similarly, as regards giving a boy in adoption, we have prohibited the father from giving a son in adoption without the consent of the mother where she is alive and capable of giving her consent. [Clause 12(2).]

(iv) We have also abolished the caste restrictions.

The above alterations are supported by the evidence before us. As regards the last alteration, it was contended before us with much force that it would be inconsistent to keep the caste restriction for adoptions while abolishing it in the case of marriages. Where the husband and wife belong to different castes, surely, a boy of either caste should be capable of being adopted. We are clear that, consistently with the essential principle that nothing should be permitted in the Code which offends against equality of all Hindus before the law, there is no alternative to the abolition of castes restrictions in the matter of adoptions.

143. *Bombay Rule.*—There was some opposition to the proposal to give authority to a Hindu widow to adopt a son to her husband, where he has not expressedly or impliedly prohibited an adoption by her. But in view of the very large and general measure of support accorded to the proposal, we consider it desirable to retain it. This rule now prevails in Bombay, and our proposal was to extend it throughout British India. Women in Provinces other than Bombay were almost unanimously in favour of this enlargement of their rights. The Maharani of Natore and other *purdanishin* ladies, whom we examined at Calcutta, were opposed to most of the alterations made by the Code, including the provision for monogamy contained in it, but they were in favour of the extension of the Bombay rule throughout the country. We have accordingly retained it.

144. *Adoption of Girls.*—A few witnesses expressed a desire that the adoption of girls should be permitted and that the existing law should be altered accordingly. We are not in favour of providing for such adoptions by a formal statutory provision in the Code. There is nothing to prevent any Hindu of either sex from bringing up a girl as his or her *abhimanaputri* and giving her property by will or deed. In our opinion, this should

suffice. In fact, it was suggested to us by many witnesses that it would suffice even in the case of boys and that the adoption of boys may also be stopped.

145. *Dwyamushyayana, Kritrimia and Illatom.*—There was some evidence that the *dwyamushyayana*, *kritrima* and *illatom* forms of adoption may continue to be recognised. The evidence in favour of retaining the *dwyamushyayana* and *illatom* forms was not much. But in Bihar, there was a widely expressed desire that the *kritrima* form should be retained. The *kritrima* adoption creates a relationship only between the adopter and the adoptee and is practically in the nature of a contract between the two. It seems to us therefore that there can be no great objection to retaining this form in areas where it now prevails by custom, and we have done so. We have accordingly retained it as well as an essentially similar form of adoption known as the *godha* which prevails in parts of the Bombay Presidency.

146. *Adoption of orphans.*—Some witnesses desired that the adoption of orphans should be made valid. But in view of the far-reaching effects on the person adopted, we consider it desirable to retain the principle that only a father or mother can give a son in adoption. We do not think that there is any wide demand or real necessity for the adoption of orphans. Further, there is nothing to prevent an orphan being brought up by any Hindu and property being given to the orphan by a disposition made by deed or will.

GENERAL

147. *Virasaivas* (*Lingayats*).—Virasaiva witnesses told the Committee that they should be treated on the same footing as Jains and Sikhs, that they are more ancient in origin than the Sikhs, that they do not recognise the caste system and that no doubts should be thrown upon the validity of marriages between Virasaivas, who, before conversion to Virasaivism, belonged to different Hindu Castes. The contention that Virasaivas are not Hindus goes too far, but it may be conceded that their tenets are at variance with orthodox Hinduism on many points. We consider that in view of the strong sentiment felt by Virasaivas on this matter, it is desiable to meet their wishes to the largest extent possible. We have therefore mentioned them separately and spcifically in the definition of the expression "Hindu" thereby according to them the same treatment as to members of the Brahmo Samaj and Arya Samaj. We hope that this will be found satisfactory by the members of this numerous and important community.

148. *Buddhists.*—Evidence was tendered to us by a Buddhist Association in Madras that Buddhists do not wish to be governed by the Hindu Law. This Association expressed a preference to be governed instead by Burmese Buddhist Law. We are by no means satisfied that this preference is shared by Buddhists in general, especially in other parts of the country. The Hindu Law now applies to Buddhists and, in our opinion, should continue to do so.

149. *Jains.*—It was contended before us that Jain Law differs in certain respects from the Hindu Law and that there should be a separate Code for the Jains. We are not, however, in favour of this course. The differences are admittedly not many and none of them can be considered to be of a fundamental character or more important than those which exist between members of one Hindu community and another. The present position is that the ordinary Hindu Law applies to Jains, in the absence of proof of any special custom or usage varying that law (Paragraph 613 of Mulla's Hindu Law, 10 Edition). We are accordingly of the opinion that the Code should apply to Jains also.

150. *Marumakkattayam and Aliyasantana.*—It was pointed out to us that adoption among persons governed by the *Marumakkattayam* and *Aliyasantana* laws is of girls. It seems, therefore, necessary to exclude persons governed by these laws, not only from the scope of Part II of the Code, but also from that of Part VI. A saving clause, in the following terms, has accordingly been added to Part VI :

"Nothing in this Part applies to a Hindu governed by the *Marumakkattayam* or *Aliyasantana* law of inheritance." (Clause 28.)

151. *Exemption.*—It was stated before us that in certain communities, for example, the Gonds of Assam and other hill tribes, the matriarchal system prevails and that the Code should not apply to them. A representation was also received by us, in July 1944, through the Government of the Central Provinces, that the Gonds of that Province should be exempted from the Code. It is not possible for us to examine the validity or otherwise of these requests closely and arrive at final decisions in regard to each of them. It seems to us that most of the cases will be covered by the provision we have made in clause 1(3) (b) of Part I of the Draft Code *viz.,* that where the provision of the Code apply to any person by virtue of the fact that he or she is not a Muslim, Christian, Parsi or Jew by religion, if it is proved that he or she is not, in fact, governed by the Hindu Law or by any custom or usage as part of that Law in respect of all or any of the matters dealt with in the Code, the Code should not apply to him or her in respect of those matters. It is possible that there are cases which are not covered by clause 1(3)(b), but as they will arise only in the territories classed as "excluded areas" and "partially excluded areas" under the Government of India, Act, 1935, we recommend that the necessary modifications may be made in the Code when extending it under section 92(1) of the Government of India Act to those areas in which any difficulty may arise.

152. *Minor changes.*—Various other minor changes have been made by us in the Draft Code, but it is not necessary to lengthen this report by setting them out in detail.

VII.—CONCLUSION

153. In the foregoing paragraphs, we have examined briefly the validity of the objections which have been raised both to the Code as a whole and to particular provisions contained in it ; and we have also set out the modifications which we propose should be made in the Code as published by us for criticism. We have tried to examine the questions raised with impartiality and without any prejudice or predilection in favour of any particular point of view.

154. We are convinced that the proposal to codify Hindu Law is a sound one and that as in Baroda, it will prove a boon to Hindu society. The original sources of the Hindu Law lie scattered about in a multitude of works. As stated by Mahamahopadhyaya P. V. Kane in his 'History of the Dharma Shastra', "The number of authors and works on the Dharma Shastra is legion." This cannot but be so, having regard to the fact that they cover a period of over twenty-five centuries. Few people in India can claim to have mastered all this material. Sir M. Bhavanishankar Niyogi trenchantly observed : "I have yet to come across a man in Nagpur who has studied our ancient *shastras* and texts." The study of the Hindu Law occupies a considerable portion of the time of the students in our Law Colleges, but even so, graduates in law can only be regarded as being at the threshold of their study of the subject ; and it takes a considerable number of years for practitioners to acquire a correct and full grasp of the principles and provisions of the Hindu Law. On many points, there is a

conflict of decisions which has left the law in an unsettled state. A Code therefore which sets out in simple language the provisions of the Hindu Law and which will be accessible to all literate persons in the country, through the medium of translation, will be an inestimable blessing.

155. One witness before us put the matter very well when he said that the time has now come for writing a comprehensive new *smriti* of the Hindu Law in accordance with the principles which inspired the ancient *smriti* writers. Continuous adaptability is of the essence of the Hindu civilization and as Professor K. P. Chattopadhyaya of Calcutta said : "Now that we educate our girls and let them move about and qualify themselves to earn a living, a change in the social structure is required to fit in with those other changes ; otherwise, there will be maladjustment. The economic and social setting has changed and the law must change with it".

156. It should also be remembered that at the present day there is no means of making changes in the Hindu Law except by legislation. Unless Hindu society is to remain static and stagnant, the necessity will arise from time to time for making changes in the Hindu Law. It is no longer possible to effect such changes by bringing about a gradual change in customs for British Indian Courts do not recognise the validity of any custom unless it is ancient. There is thus no scope for fresh custom to grow. Nor is it possible for the Courts to effect any large improvements or changes in the Hindu Law to suit the needs of the times, for, when once the highest Court has decided a question (and most matters are now covered by such decisions) the decision becomes a binding precedent for the future, which cannot be set aside except by legislation.

157. Orthodox people appreciated the above considerations, and they could only suggest that changes should be *initiated* by a Pandits' *Parishad* and that no amending Bill should be placed before the Legislature which had not received the endorsement of such a *Parishad*. We do not think that this will be feasible in practice, nor do we think it necessary. Every Bill is now published and a reasonable time is given to all the people concerned to put forth their views and objections. Whenever any change is proposed in the Hindu Law by a legislature measure, we do not doubt that ample time will be given for its consideration and that all opinions, including those emanating from Pandits and Pandits' *Parishads*, will be duly taken into account by the Government of the day before they take upon themselves the responsibility for passing the measure into law. In fact, some *Parishads* have been held to consider the draft Code published by the Committee and one of us was present at the *Parishad* held in Madras. We need hardly say that we have given our most careful consideration to the views and the arguments advanced at these *Parishads*. Although Pandits generally are not likely to be enthusiastic in the cause of reform, yet, there is nothing to prevent them from holding *Parishads* whenever they wish and suggesting in advance any changes which they think it desirable that the Legislature should make in the Hindu Law. The present position cannot therefore be considered to be unsatisfactory even from the orthodox point of view.

158. Without minimising the opposition to some of the provisions of the Code, we would point out that the opinions of men like the Right Hon'ble Srinivasa Sastri, the Right Hon'ble Sir Tej Bahadur Sapru, Sir S. Radhakrishnan, Sir P. S. Sivaswami Ayyar and a number of other distinguished persons who cannot be accused of taking extreme or radical views must be heard with respect and attention. Moreover, we cannot afford to ignore either world opinion or India's own recent declaration of certain fundamental rights. It seems to us that a considerable body of thoughtful opinion favours the codification of the Hindu Law and the few

changes which we have incorporated in it. In the younger generation, the vast majority favour the Code, and this is a circumstance from which we have derived the utmost encouragement. For, as a young man put it before us, it is the young who will have to live and be governed by the Code. We ourselves have throughout our work entertained a considerable bias in favour of the existing law and have made change only where we felt them to be absolutely necessary. The changes have been restricted by us within the narrowest possible limits.

The Swamiji of the Jai Guru Society, U. P., in the course of his evidence said :—

"I am in favour of having one law for all Hindus, but Hindu culture must be maintained by the uniform Code which we make, and the Code must not offend against the spirit of Hindu culture and institutions".

We may say that is in the above spirit that we have laboured throughout.

159. We have derived considerable help in our task both from the written memoranda presented to us and theroral evidence tendered before us in the course of our tour. The labour undertaken in the preparation of some of the written memoranda must have been very great. One gentleman (Dr. D. W. Kathalay of Nagpur) sent us a memorandum of more than 300 pages of typed matter for our consideration and the work done by him must have been ardous indeed. Many of the witnesses who appeared before us had to travel long distances at their own expense, and they grudged neither the cost nor the trouble involved. For various reasons, there was an atmosphere of excitement and passion at many centres visited by us which prevented calm discussion of the subject. As pointed out by many witnesses, even so, the hostility aroused by the Code was far less than that evoked by the Sarda Bill for the prevention of child marriages. The opposition to the Sarda Act has now died down, and it is now generally accepted to be beneficial measure. The Deshmukh Act of 1937, against which the same sort of objections as have been advanced against the Code could have been and were advanced, has also been accepted by Hindu public opinion, including orthodox opinion. In the same way, we are confident that the revised draft Code appended to this report, with such changes as the Legislature may make therein, will earn public approval.

160. In conclusion, we should like to place on record our deep appreciation of the services rendered by our Secretary, Mr. K. V. Rajagopalan He is a tireless worker and his patient study of many difficult problems and his consumate draftsmanship have been of invaluable help to us.

161. The draft Code as revised by us in the light of the criticisms received and the evidence taken is appended to this Report.

B. N. RAU, *Chairman*,

J. R. GHARPURE, *Member*.

T. R. VENKATARAMA SASTRI, *Member*.

NEW DELHI;

February, 21, 1947.

APPENDIX I

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT

New Delhi, the 20th January, 1944

RESOLUTION

No. F.-208/1/43-C. *& G.* (*Judl.*).—The Hindu Law Committee was appointed on the 25th January, 1941, to advise Government on the best method of dealing with the anomalies and uncertainties resulting from the Hindu Women's Rights to Property Act, 1937, as amended by Act XI of 1938. In paragraph 15 of their Report the Committee expressed themselves in favour of a codification of the Hindu Law by stages beginning with the law of succession and the law of marriage. The Government of India accepted this view and in pursuance thereof the Committee furnished Government in March, 1942, with two draft Bills, the first dealing with the law of intestate succession and the second with the law of marriage. Thereafter the Committee ceased to function.

2. On the 30th May, 1942, the two Bills prepared by the Committee were published in the *Gazette of India*, under rule 18 of the Indian Legislative Rules and thereafter were circulated by executive order for the purpose of eliciting opinion. The Intestate Succession Bill was in due course referred to a Joint Committee of both chambers of the Indian Legislature and a motion for the circulation of the Bill, as reported by the Joint Committee, for the purpose of eliciting opinion thereon was adopted by the Legislative Assembly on the 17th November, 1943. The Marriage Bill was introduced in the Assembly on the 2nd March 1943.

3. The Intestate Succession and Marriage Bills both contain provisions fixing the 1st January 1946, as the date on which they shall come into force. This date of commencement was proposed with a view *inter alia* to give the Central Legislature sufficient time to codify other branches on Hindu Law so that there may be an entire Hindu Code in operation from the 1st January 1946. Referring to this provision in which they propose no change the Joint Committee in their Report on the Intestate Succession Bill express the opinion that "steps should be taken to resuscitate the Hindu Law Committee and to encourage the formulation and enactment of the remaining parts of the projected Code in the interval which is to elapse before the present Bill when passed comes into force" and they reinforce this expression of opinion with the remark that "it may well be found that the present Bill will require, before it is allowed to come into operation, readjustment and amendment in the light of decisions taken in connection with other branches of the Hindu Law". A Resolution embodying a similar recommendation was adopted in the Council of State on the 5th August, 1943. The Central Government have accepted this recommendation and have decided to revive the Hindu Law Committee.

4. The Committee will be composed as follows :—

Chairman.

The Honourable Mr. Justice B. N. Rau, Kt., C.I.E., Judge, Calcutta High Court.

Members.

1. Dr. Dwarka Nath Mitter, M.A., D.L., formerly a Judge of the Calcutta High Court.
2. Mr. J. R. Gharpure, B.A., LL.B., Principal, Law College, Poona.
3. Mr. T. R. Venkatarama Sastri, C.I.E., Advocate, Madras.

Mr. K.V. Rajagopalan of the Madras Provincial Service will act as Secretary to the Committee.

The headquarters of the Committee will be at Simla and it will meet towards the end of January 1944.

ORDER.—Ordered that the above resolution be published in the *Gazette of India* for general information and that copies be communicated to all Provincial Government and Chief Commissioners for information.

G. H. SPENCE,

Secretary to the Government of India.

APPENDIX II

EXPLANATORY STATEMENT PREFIXED TO THE DRAFT CODE PUBLISHED ON AUGUST 5, 1944.

The Hindu Law Committee have been appointed by the Government of India for the purpose of formulating a Code of Hindu Law which should be complete as far as possible. It is generally felt that the evils of piece-meal legislation on this subject should be avoided and that an entire Hindu Code acceptable to the general Hindu public should be in operation at an early date. The intention is to place the Code prepared by the Committee before the two Chambers of the Central Legislature for their consideration, so that they may have a complete picture of the Committee's proposals in their entirety, to enable them the better to deal with particular topics like the law of intestate succession and marriage.

2. The Committee accordingly prepared a draft Code on those topics of the Hindu Law on which alone the Centre can legislate under the existing Constitution, and had it circulated to leading lawyers in India. This draft has been largely revised in the light of the criticisms received and is now published for general information. All individuals and associations wishing to sudmit their views on the draft to the Committee are cordially invited to do so. The Committee hope to proceed to important cities in India later in the year, to hear the views of representative persons who are interested in the subject; and all persons or associations who wish to be orally heard by the Committee are requested to write to the Secretary to the Committee at Fort St. George, Madras, before the 5th of October, with an intimation of the City at which it will be convenient for them to appear before the Committee.

3. The draft now published is only a tentative one which is intended to focus the attention of the public on the main issues which arise, and the Committee should not be regarded as wedded to any of its provisions. They intend to revise the draft in the light of public opinion as elicited by them in writing and orally.

4. In introducing the draft Code to the public, the Committee wish to make one preliminary observation. One of the objects of the Committee is to evolve a uniform Code of Hindu Law which will apply to all Hindus by blending the most progressive elements in the various schools of law which prevail in different parts of the country. The achievement of uniformity necessarily involves the adoption of one view in preference to others on particular matters. The Committee desire that the Code should be regarded as an integral whole, and that no part should be judged as if it stood by itself.

5. The draft Code deals with the following subjects :—Intestate and Testamentary Succession and matters arising therefrom, including maintenance; Marriage and Divorce; Minority and Guardianship and Adoption. These are all the topics on which the Centre can legislate at present and Hindu Code enactable by the Centre has necessarily to confine itself to them. The very fact that these topics are in the Concurrent Legislative List instead of in the exclusively Provincial List suggests that they are the topics on which all-India uniformity is *prima facie* desirable. Except for the fact that succession to agricultural land falls within the Provincial field, and is excluded from the Central, the Code may be said to cover many important branches of Hindu Law. As regards agricultural land, it may well be hoped that after the Code has been enacted by the Central Legislature, the Provincial Legislatures will speedily extend its relevant provisions to agricultural land also.

APPENDIX III

List of Witnesses Examined by thé Hindu Law Committee

Bombay City

Monday, 29th January, 1945

1. Mrs. Sarojini Mehta (Bhagini Samaj, Bombay).
2. Mr. Ramji Shastri Pande (Bombay Sanskrit Chhatra Sangh).
3. Mr. S. Y. Abhyankar, Pleader, Bombay High Court.
4. Mr. Tanubhai D. Desai, Solicitor, Bombay.
5. The Hon'ble Sir Harshadbhai Divatia, Judge, High Court, Bombay, and Messrs. B. N. Gokhale, P. S. Bakhale and D. G. Dalvi (Bombay Presidency Social Reform Association), (The Hon'ble Sir H. Divatia with Mr. A. G. Mulgaokar also represented the Hindu Law Reform and Research Association).
6. Mahamahopadyaya P. V. Kane, Advocate, Dharma Nirnaya Mandal, Lonavala.

Tuesday, 30th January, 1945

1. Mrs. Babi Ben Mulji Dayal (Bhatia Stri Mandal).
2. Mr. Manubhai C. Pandia (Varnashram Swarajya Sangh, Bombay).
3. Mrs. Kamala Dungarkarry and Mrs. Sulochana Mody (Bombay Presidency Women's Council) and Lady Chunilal V. Mehata and others (Gujarathi Hindu Stri Mandal).
4. Mahamahopadyaya P. V. Kane (Dharma Nirnaya Mandal) continued.

Wednesday, 31st January 1945

1. Mr. D. P. Sethna, Mr. Mangaldas V. Mehta and Mr. Tanubhai D. Desai (Bombay Incorporated Law Society.)
2. Mr. Bhandarkar (Bombay Prarthana Samaj).
3. Mrs. Dharamsi Thakkar, Mrs. Babi Ben Mulji Dayal, Mrs. Kara and Mrs. Menabai Jamnadas Bhatia Hindu Stri Mandal).
4. Mrs. Dharamsi Thakkar, Mrs. Babi Ben Mulji Dayal, Mrs. Kara and Mrs. Menabai Jamnadas (Representative Committee of Hindu Ladies).
5. Rao Bahadur P. C. Divanji.
6. Sir Chimanlal Setalvad.

Friday, 2nd February, 1945

1. Miss Engineer, M.A., LL.**B.,** J.P. (Seva Sadan Society, Bombay).
2. Mrs. Leelabhai Phadke and Mrs. B. N. Gokhale (Arya Mahila Samaj).
3. Mr. M. C. Setalvad (Bombay Bar Association).

Poona

Saturday, 3rd Februay 1945

1. Dr. Irawati Karve, Ph.D. (Berlin), Reader in Sociology, Deccan College.
2. Messrs. B. H. Joshi and P. V. Davre, Advocates of Poona.

Sunday, 4th February, 1945

1. Mr. K. B. Gajendragadkar, B.A. (Hons.), LL.B., Pleader of Satara.
2. Rao Bahadur G. V. Patwardhan, Retired Small Cause Court Judge, Poona.
3. Rani Laxmibai Rajwade.
4. Mr. N. V. Bhonde and Mr. V. J. Kinikar (Poona Bar Association).
5. Mr. Pusalkar of Kolhapur (Brahman Sabha of Kolhapur).

Monday. 5th February 1945

1. Miss Ranade and Miss Tarabai (Maharashtra Mahila Mandal of Poona).
2. Mrs. Yamutai Kirloskar (All-India Maharashtra Mahila Mandal).
3. Vyakarana Sinha Kashinath Ramachandra Umbarkar Sastri of Pandharpur.
4. Messrs. L. M. Deshpande, N. V. Budhkar and N. A. Deshpande of Karad.
5. Mrs. Sarla Bai Naik, M.A. (Indian Women's Council).
6. Mr. Chapekar (The Dharma Nirnaya Mandal).
7. Mrs. Janakibai Joshi (All-India Hindu Women's Conference).
8. Mr. L. K. Bhave (The Maharashtra Brahman Sabha).
9. Mr. L. K. Safai (Sri Shukla Maharashtra Brahman Sabha, Poona).
10. Mr. D. V. Joshi.
11. Mr. Ravade (Representative of His Holiness The Sri Sankaracharya of Karvir and Sankeshvar).

Bombay City

Tuesday, 6th February, 1945.

1. Lady Vidyagauri Neelkanth (Gujarat Social Reform Association and President, Bombay Provincial Women's Council, (Ahmedabad Branch).
2. Mr. Patwar, Advocate, Ahmedabad.
3. Mrs. Pushpavati Mehta (Vikas Griha, Ahmedabad).
4. Mr. K. N. Mushi.
5. Mr. Sunderlal Joshi (Hindu Code Deliberation Committee, Nadiad).
6. Mrs. Nalini Bai B. Sukthankar, Mrs. Nalini Paranjpe and Mrs. Lilavati Banker (National Council of Women in India).

Delhi

8th February, 1945.

1. Mr. Ganpat Rai, Advocate Delhi and Agent, Federal Court.
2. Messrs. Gyan Prakash Mithal and Prabhu Dayal Sarma (Sanatana Dharma Rakshini Sabha, Meerut).
3. Acharya Chandra Sekhara Sastri (Editor, *Vaisya Samachar*) (A Hindi Weekly).
4. Mr. Jyoti Prasad Gupta, Delhi.

9th February, 1945.

1. Mr. Chand Karan Sarda (President, Rajputana Provincial Hindu Sabha).

10th February, 1945.

1. Mrs. Rameshwari Nehru, Mrs. Chandrakala Sahai and Mrs. Renuka Ray (The All-India Women's Conference).
2. Rai Bahadur Harish Chandra (All-India Hindu Mahasabha), (Delhi Branch).

12th February, 1945.

1. Mr. K. Sanathanam, M.A., B.L. (*Ex*-M.L.A.).
2. Mr. Wazir Singh, (Singh Marriage Bureau).

13th February, 1945.

1. Pandit Nilakantha Das, M.L.A. (Editor *Nava Bharat*).
2. Mr. Makhanlal Sastri (Digambar Jain Maha Sabha.)

Allahabad

Saturday, 17th February, 1945.

1. Mr. K. R. R. Sastri, Reader in Law, Allahabad University.
2. Mr. Bajranglal Chand Gotriya, General Manager, The Gita Press, Gorakhpur.
3. Mr. S. K. Dutt, Advocate.

Sunday, 18th February, 1945.

1. Pandit Ganga Shankar Misra, M. A., Pandit Ramayesh Tripathi, Pandit Ramachandra Sastri and Pandit Durga Datt Tripathai. (All-India Dharm Sangh, Ganga Tarang Nagwa, Benares).
2. Swamiji of the Jai Guru Society.
3. Mahamahopadhyaya Pandit Chinnaswami Sastri, Principal, Oriental College, Benares Hindu University, Mr. T. V. Ramachandra Dikshit, Pandit Mahadeva Sastri and Pandit Viswanadha Sastri (All-India Sanathana Dharma Mahasabha).
4. Mr. V. V. Deshpande of Benares (All-India Varnashrama Swarajya Sangh, Benares).

Monday, 19th February, 1945.

1. Mr. V. V. Deshpande (All-India Varnashrama Swarajya Sangh, Benares).
2. The Saraswathi Vagvilas Mandal, Benares.
3. Srimathi Vidyavathi Devi (Secretary, Arya Mahila Hitakarini Mahaparishad.)
4. Srimathi Sundari Bai, M. A., B.T. (Headmistress, Arya Mahila Vidayalaya and Editor "Arya Mahila").
5. Pandit Subodh Chandra Lahiri of Benares (Kashi Pandit Samaj).
6. Bibhuti Bhushan Yaya Charya and Bankim Chandra Bhattacharya (Kashi Pandit Samaj).
7. Pandit Keshav Misra (Dukh Dardh Nibaran Sangh and Editor "Sri Vijaya", and Commissioner of the Allahabad Municipality).
8. Pandit Sri Sadayatan Pandya Ahrura (President, U. P. Dharma Sangh and Vice President All-India Varnashrama Swarajya Sangh).

9. Gurulinga Sivacharya (Jangamadi Mutt, Benares).
10. Bishambarnath (All-India Agarwal Hindu Mahasabha, U. P.).
11. Representative of His Holiness the Jagadguru Sri Sankaracharya.

Patna.

Thursday, 22nd February, 1945.

1. Sri Sitaramiya Brojendra Prasad, M.A., B.L., Retired Subordinate Judge.
2. Mr. Awadh Bihari Jha, Advocate, Patna.
3. Mr. Panch Ratan Lal, President , Hindu Committee, Sheghati, Gaya District.
4. Mr. Naval Kishore Prasad (No. II), Advocate, Patna High Court.

Friday, 23rd February, 1945.

1. Sri Awad Behari Saran, Government Pleader, Shahabad.
2. Mr. G. P. Das, Government Pleader and Public Prosecutor, Orissa, in the Patna High Court.
3. Mr. Nitai Chandra Ghosh, Advocate, Patna.
4. Mr. Rai Tribhavan Nath Sahai, Advocate, (Central Bihari Association).
5. Mr. Kapildeo Narain Lal, Advocate (*Vice*-President, Hindu Sabha).
6. Mr. Manmatha Nath Pal, Advocate, Patna.
7. Mr. Satish Chandra Misra, Advocate.
8. Mr. Krishna Deva Prasad (Patna District Bar Association).
9. Messrs. Chandrasekhar Prasad Sinha and Atulendu Gupta, Pleaders (Dinapur Bar Association).

Saturday, 24th February, 1945 .

1. Rai Sahib Sri Narain Arora and Mr. Nawal Kishore Prasad (No. I), Rajah Sir Raghunandan Prasad Singh of Monghyr, Rai Bahadur Syamanandan Sahaya, C.I.E., Dr. M.P. Tripathi, Mr. Lakshmi Ranth Jha, Advocate, Mr. J.P. Tharuar, Mahanta Jnan Prakash of Ranchi, Pandit Ganesh Sharma, Mr. Aditya Narain Lal and Mr. Hari Shanker Chowdhury of Dharbhanga (Provincial Hindu Mahasabha).
2. Dr. N. P. Tripathi (General Secretary, Bihar Provincial Hindu Sabha).
3. The Bihar Pranthiya Sanathan Dharam Sabha, D. P. Tiwari, D. P. Jhunjhunwala and R. C. Misra.
4. Mr. Navadwip Chandra Ghosh, Advocate (All India Yadav Mahasabha).
5. Mr. Hari Nandan Singh, M.L.A., Advocate.
6. Sri Brahmo Deo Narayan, Advocate.
7. Mr. Mukteswar Pandya, M.L.A.

Calcutta

Monday, 26th February, 1945.

1. Mr. A. C. Gupta, Advocate.
2. Professor K. P. Chattopadhyaya of the Calcutta University.
3. Mr. Phanindra Nath Brahma, Rai Bahadur Bijay Bihari Mukharji, Messrs. Jatindra Mohan Datta, Sanat Kumar Ray Chowdhury (*ex.* Major of Calcutta), Purnendu Sekhar Basu Phakirchandra Pal, Biman Chandra Bose, Apurbakrishna Dutt and Sachindra K. Ray Chowdhury (Bengal and Assam Lawyers' Association).

Tuesday, 27th February, 1945.

1. Bengal and Assam Lawyers' Association.
2. Dr. Annnta Prasad Banerji, Principal, Sanskrit College, Calcutta.
3. Mahamahopadhyaya Chandidas Nyaya Tarkathirtha and others (Bangiya Varnashram Swarajya Sangh and the Bangiya Brahman Sabha).
4. Mr. B. K. Chatterji (Chief Auditor, East Indian Railway) and Mr. Chotalal Kanoria.
5. Messrs. Hiralal Chakravarthy, Ramaprasad Mukherjee, Panchanan Ghosh Bankim Chandra Mukherjee, Chandrasekhar Sen and Purnendu Sekhar Basu (High Court Bar Association).

Wednesday, 28th February, 1945.

1. The All-India Women's Conference and various other Women's Organisations—Mrs. Sarala Bala Sarkar, Dr. Miss Phulrani Dutt and others.
2. Dr. Nalini Ranjan Sen Gupta, Mr. N. C. Das Gupta and Mr. J. Mazumdar (Shastra Dharma-Prachara Sabha).

3. Mahamahopadhyaya Pandit Anantakrishna Sastri.
4. Babu Tarak Chandra Das, Lecturer in Social Anthropology, Calcutta University.
5. Mr. S. N. Ghose and Mr. H. C. Ghose (United Mission).
6. Sir N. N. Sircar, K.C.S.I., *ex*-Law Member, Government of India.

Thursday, 1st March, 1945.

1. The Maharani of Natore, Mrs. Saradindu Mukerji, Mrs. Manzura Banerji, Seja Bowrani (Mrs. Sudhira Debi) of Dighapatia Raj, Mrs. Prathulpati Ganguli, Mrs. D. Mullick, Mrs. B. C. Ghosh, Mrs. Purnedu Tagore and Mrs. Ratan Ben Jethi (Gujarati Sevika Sangh).
2. Pandit Akshay Kumar Shastri and Pandit Sarat Kamal, Nyayathirtha and Smritithirtha (Tarakeshwar Dharma Sabha).
3. Rai Bahadur B. B. Mukherji, retired Director of Land Records.
4. Srimathi Anurupa Debi and Lady Ramachari.
5. Mrs. Basanta K. Chatterjee.
6. The Calcutta High Court Bar Association, Mr. Hiralal Chakravarthi and others.
7. Messrs. R. M. Gaggar, K. C. Kothari and B. D. D. Mundhra (Maheshwari Sabha).
8. Pandit Narayana Chandra Smritithirtha and Pandit Srijiva Nyayathirtha of the Calcutta Sanskrit College and the Bhatpara Sanskrit College.
9. Mr. Rishindra Nath Sarkar, Advocate.

Friday, 2nd March, 1945.

1. Mr. P. L. Shome, Advocate-General, Assam.
2. Swami Ram Shukla Das and five others (Govind Bhavan).
3. Messrs. Satinath Roy, J. M. Dutt, R. Chowdhury, Chunilal Roy and B. K. Chowdhury (Indian Association).
4. Messrs. S. C. Mukherjee (I.C.S., Retired), S. C. Roy, S. M. Bose and Dr. D. Mitra (Sadharan Brahmo Samaj).
5. Mrs. S. R. Chatterjee, Mrs. I. P. Ganguly, Mrs. S. P. Roy, Mrs. K. C. Chundar, Mrs. Amar Bala Bhattacharya, Mrs. T. N. Banerjee and Miss Arati Mukherjee (Hindu Women's Association).
6. Lady Ranu Mookerjee.
7. Mr. Kumar Purendra Nagore Tagore, Bar-at-Law, All-India Anti-Hindu Code Committee.
8. Mr. N. C. Chatterjee, Mr. Sanat Kumar Ray Chaudhuri and Mr. Debendranath Mukherjee (Bengal Hindu Mahasabha).

Saturday, 3rd March, 1945.

1. Marwari Association, The Marwari Chamber of Commerce and the All-India Marwari Federation.
2. The Maharaja of Cossimbazaar and Mr. B. N. Roy Chaudhury (of Santosh).
3. Messrs. Sachin Chaudhury, G. P. Kar, K. K. Basu and B. Das, Bar-at-Law, Messrs. H.N. Bhattacharya, N. C. Sen, R. N. Chakravarthy, Advocates and Mr. R. C. Kar, Solicitor.

Madras

Monday, 5th March, 1945.

1. The Right Hon'ble V. S. Srinivasa Sastri.
2. Mr. K. V. Krishnaswami Ayyar, Advocate.
3. Diwan Bahadur R. V. Krishna Ayyar, B. A., M.L., C.I.E.

Tuesday, 6th March, 1945.

1. Mrs. Indrani Balasubramaniam.
2. Sri Vepa Ramesam, Retired High Court Judge.
3. Mr. S. Muthia Mudaliyar, C.I.E., Advocate and *Ex*-Minister.
4. Mr. K. Bashyam (President), Mr. K. Venkatarama Raju (Secretary) and Messrs. N. R. Raghavachari and N. Sivaramakrishna Ayyar, Advocates (Madras High Court, Advocates Association).
5. Mr. K. Kuttikrishna Menon, Government Pleader.
6. Mr. P. Govinda Menon, Crown Prosecutor.
7. Mr. S. Guruswami, Editor, *New Viduthalai*.
8. Mrs. Kunjitham Guruswami.
9. Mr. P. V. Rajamannar, Advocate-General, Madras.

Wednesday, 7th March, 1945.

1. Mrs. Ambujammal and Mrs. Savitri Rajan (The Women's Indian Association, Madras).
2. Mr. S. Ramanathan, M.A., B.L.
3. Mr. P. V. Sundaravaradulu, Advocate, Chittoor.
4. Sri Rao Bahadur D. S. Sarma, M.A.
5. Sri Rao Bahadur V. V. Ramaswami, Chairman, Municipal Council, Virudunagar and *Vice*-Chairman, Nadar Mahajana Sangham, Madura.
6. Messrs. A. Arunachala Pillai, V. Manickka Mudaliyar, C. Tyagaraja Mudaliyar and Sivamuthu Kumaraswami Mudaliyar (The Vellala Sangham).
7. Mr. Balasubramania Mudaliyar, Editor, *Sunday Observer*.
8. Rao Sahib T. A. V. Nathan, B. A., B.L., Special Press Adviser to the Madras Government.
9. Sri Thethiyur Subrahmanya Sastriyar (President, Madura Adwaita Sabha).
10. Srimathi M. A. Janaki, Advocate.
11. Mr. K. S. Champakesa Ayyangar, Advocate (Varnamamalai Mutt).

Thursday, 8th March, 1945.

1. Miss. Chokkammal, B.A., B.L., Advocate, Madras.
2. Mr. V. N. Srinivasa Rao, M.A., Bar-at-Law.
3. Sri V. Venkatarama Sastri.
4. Messrs. V. P. S. Marian, R. P. Thangavelu and M. Ponnu (South Indian Buddhist Association).
5. Mr. G. V. Subha Rao, President of the Andhra Swarajya Party, Goshti, Bezwada.
6. Mr. V. Appa Rao, Advocate, Vizagapatam.
7. Sri V. V. Srinivasa Ayyangar, Retired High Court Judge.
8. Mr. E. S. Reddi, Secretary, Nellore, District Students' Federation.
9. Mr. P. C. Reddy of the V. R. College, Nellore.
10. Mr. G. Krishnamurthi, Subordinate Judge.
11. Mr. B. Sitarama Rao, Advocate.
12. Vidwan Kumara Thathachariar.
13. Mr. V. M. Ghatikachalam (Madras Provincial Backward Classes League).
14. Sir P. S. Sivaswami Ayyar.

Friday, 9th March, 1945.

1. Diwan Bahadur K. S. Ramaswami Sastri, Retired District and Sessions Judge.
2. Mr. S. Srinivasa Ayyar, Advocate and *Vice*-President of the Madras City Hindu Mahasabha.
3. Mr. B. N. Guruswami, Secretary of the Tamilar Nalvashkkai Kazhagam, Madras.
4. Sri D. H. Chandrasekharaiya, B.A., B.L., of Mysore (President of the Mysore Legislative Council).
5. Sri R. Balasubramania Ayyar, B.A., B.L., Advocate.
6. Mr. T. V. R. Appa Rao, Advocate of Narasapur (West Godavari District) Narasapur Bar Association.
7. Messrs. K. S. Mehta and M. L. Sharma (Sowcars' Association and the Marwari Association.)
8. Mr. N. Srinivasa Sastri of Papanasam (Schoolmaster).
9. Mrs. Kamalammal of the Asthika Madar Sangham.
10. Mr. R. Suryanarayana Rao, B.A.
11. Messrs. S. Mahalinga Ayyar, T. L. Venkatarama Ayyar and V. Narayana Ayyar, Advocates and Pandit K. Balasubramanya Sastri (Representatives of His Holiness the Sankaracharya of the Kanchi Kamakoti Peeth).

Saturday, 10th March, 1945.

1. Dharma Bhushana Dharma Sarvadhikara Rao Sahib N. Netesa Ayyar, Advocate, Madura.
2. Mrs. Pattammal (Asthika Madar Sangham), Madras.
3. Diwan Bahadur Govindoss Chaturbujdoss.

Nagpur

Monday, 12th March, 1945.

1. National Council of Women in India—Mrs. Ramabai Thambe, Miss A. J. Cama, Mrs. Nayudu and Mrs. Mandpa.
2. All-India Women's Conference (Nagpur Branch), Mrs. Natesha Dravid and Miss P. Pradhan, M.A., LL.B., advocate.

3. Mr. G. T. Bhide, M.A., LLB., Advocate, Nagpur.
4. Dr. D. W. Kathalay, Advocate, supported by Dr. B. S. Moonje and Mr. B. G. Khaparde.
5. Mr. A. R. Kulkarni, B.A., LL.B.
6. Diwan Bahadur K. V. Brahma, Advocate.

Tuesday, 13*th March*, 1945.

1. Mr. B. D. Kathalay, B.A., LL.B. , Advocate.
2. Mr. M. B. Mahajan, Advocate, Akola, Mr. W. J. Danori, Pleader, Chanda, Pandit Sumathi Chandra Divakar. Shastri Nayayathirtha, B.A., LL.B., Mr. D. J. Mahajan, Working President of the Jain Research Institute and Mr. L. S. Alaspurkar, B.A., LL.B., General Secretary, Jain Seva Mandal, Nagpur.
3. Professor M.A. Sakhare, M.A., T.D. (Cantab) and Mr. I. S. Pawate, Sub-Judge, Baramati, Poona (All India Veera Saiva Mahamandal, Sholapur and Veera Saiva Sudharan Samaj.)
4. Dr. K. L. Daftari, B.A., B.L., D. Litt.) (Dharma Nirnaya Mandal).
5. Diwan Bahadur Sita Charan Dube, Advocate.
6. Mr. P. B. Gole, B.A., LLB., (*Ex*-Minister of the Central Provinces, Akola,) Mr. Gangadhar Hari Paredkar, Miss Vimal Thakkar and Mr. Radhakrishna Lachmi Narain (Varnashrama Swarajya Sangh of Akola).
7. Miss. Vimal Thakkar.
8. Mr. N. V. Machewa, Organizer of reformed Marriage, Institutions, Nagpur.
9. Mr. Kasturchand Agarwal, B.A., LL.B., Pleader, Seoni, Chindwara.
10. Mr. S. N. Kherdekar, B.A., M.L., Advocate, Nagpur.
11. A Women's deputation representing the Mahasabha point of view consisting of Lady Parvatibai Chitnavis, Mrs. Laxmibai Paranjpe, Mrs. Premilabai Varadpande, Miss Santhalbai Dawande and Mrs. Tarabai Ghatate.
12. The Honourable Justice Sir N. Bhavani Shankar Niyogi of the Nagpur High Court.
13. The Hindu Mahasabha deputation led by Dr. B. S. Moonje and Dr. Kathalay.
14. Mr. R. N. Kate (Hindu Nationalist Party of Nagpur).

Lahore

Friday, 16*th March*, 1945.

1. Lala Jamna Das (Secretary) and Pandit Jagat Raj Sastri, Principal of the Sanathan Sanskrit College, Hoshiarpur (Sri Sanathana Dharma Sabha, Hoshiarpur).
2. The All-India Jat Pat Torak Mandal represented by Mr. Sant Ram, President, Mr. Indar, Singh, Assistant Secretary and Dr. Nathuram. Member of the Working Committee.
3. The Sanathan Dharma Prathinidhi Mahasabha, Rawalpindi—Mr. Lakshmi Narain Sudan, *Vice*-President.
4. Mr. C. L. Anand, Principal, Law College, Lahore.

Saturday, 17*th March*, 1945.

1. Mr. Narottam Singh Bindra, Advocate.
2. Rai Bahadur Badri Das, Mr. Jivan Lal Kapur, Bar-at-Law, and Mr. Harnam Singh, Advocate (Bar Association of the Lahore High Court).
3. Sanathana Dharma Pratinidhi Sabha of the Punjab—Representatives Dr. Prabhu Datt Shastri, Ph.D., Dr. Parasu Ram Sharma, Mahamahopadhyaya Pandit Parameshwaranand and Pandit Raghunath Datt Shastri, Vidalankar.
4. Malik Arjan Das, General Secretary, Punjab Provincial Hindu Sabha.
5. Miss Nirmal Anand, M.A., Lecturer in Geography, Kinnaird College for Women.
6. Mrs. Dunichand of Ambala, M.L.A., Miss Krishna Nandlal, M.A., LL.B., Advocate, Mrs. Snehlata Sanyal, Lecturer, B.T. Class, Sir Gangaram Training College, Dr. Mrs. Damyanti Bali, Member of the Arya-Samaj, Miss Sita Suri, Member of Istri Sahay Sangathan, Mrs. Achint Ram, Mrs. Arun Sarma from Amritsar, President Brahman Sanathan Sabha, Miss Vidyavathi Seth, Secretary of Stri Samaj, Mrs. Amarnath Kripal, Arya Samajist, Mrs. Sitadevi Chabildas, Congress Worker and Arya Samajist.

Saturday, 18*th March*, 1945.

1. Mahamahopadhyaya Girdhar Sharma Chaturvedi, Pandit Netramani Sastri, Pandit Chandrabhanu Sastri, Dr. D. S. Trivedi, Ph. D. (Sanathan Darma Vidyapith of Lahcre).
2. Sardar Sahib Iqbal Singh, Advocate.
3. Mr. S. 'Nihal Singh, Advocate (President of the All-India Hindu Women's Protection Society).

4. Srimathi Panditha Krishna Devi and other Hindu ladies of Lahore.
5. Sardarni Kamalawati Misra, *Vice*-President of the All-India Hindu Women's Conference and other Hindu ladies of Amritsar.

Sunday, 19*th March*, 1945.

1. Pandit Nandlal Sharma of Rawalpindi (Sri Sanatana Dharma Pratinidi Mahasabha, Punjab, Rawalpindi, Dharam Singh, Rawalpindi, and North-West Frontier Province Brahman Sabha).
2. Dr. Miss Vidyawati Sabharwal, M.B., Ch. B. (Edin.).
3. Pandita Raj Bulaquy Ram Vidya Sagar, Punjab Bushan, Retired Religious Instructor, Mayo College, Ajmer, President of the Anti-Hindu Code, Committee, Amritsar.

3A. Mehta Puranchand, Advocate (Dharma Sangh, Lahore).

4. Mr. C. L. Mathur, Reader, Law College, Lahore.
5. Pandit Mehr Chand Sastri, Sanatana Dharma Sanskrit College, Bannu, N.W.F.P.
6. Miss Sabharwal, Principal, Fateh Chand, College for Women.
7. Mrs. Lekhwati Jain of Amritsar (Jain Mahila Samity).
8. Pandit Rurilal Sharma, Secretary, All-India Dharma Sangh, Lala Mohkamchand, B.A., L.L.B., Advocate, Pandit Raghunandan Prasad, M.A., M.O.L., Professor, Oriental College, Punjab, Pandit Parashivji Ramdwara representing Sanatana Dharma Prachar Sabha.
9. Mr. Kesho Ram, Advocate, Amritsar, President Bar Association, Amritsar and also the Durgiana Temple Committee.
10. Moolraj Kapoor Kshatriya, Upamantri Dharma Sangh, Punjab, Prantik.
11. Brahmachari Gopi Krishan Vyasm representative of the Sanskrit students of Sitala Mandir in Lahore.
12. Mr. Raghunath Rai, Barrister, Lahore.
13. Pandit Brahmu Ram, General Secretary, Kangra Sudhar Sabha.
14. Mr. Butaram. Arya Pratinidhi Sabha, Punjab.
15. Mr. Some Prakash Sud, Joint Secretary of the Arya Samaj, Lahore Cantonment.

APPENDIX IV

Extracts from the Explanatory Note attached to the Statement of Objects and Reasons to the Intestate Succession Bill prepared by the Hindu Law Committee of 1941

As regards the Hindu women's limited estate which the Bill seeks to abolish, it is unnecessary to repeat here what has been said in our Fourth Memorandum (*see* Appendix to the Bill). There is a considerable body of opinion that this particualr limitation has no real basis in the *smritis*. Dr. Mitter, who has discussed this question at great length in his Thesis on "The Position of Women in Hindu Law" (1913), has observed that although the doctrine has been firmly established by judicial decision, nevertheless, so far as *smriti* authority goes, there is very little of it to support the theory of the limited estate of women in inherited property (*loc. cit.* p. 526). This agrees with the opinion of Sir M. Venkatasubba Rao quoted in our Memorandum that the doctrine is "a pure creation by judicial decisions unsupported by ancient Shastra". Dr. Jayaswal in his Tagore Lecture of 1917 on "Manu and Yajnyavalkaya" has staed that "all the commentators are equally guilty in reducing the right of the widow to a limited interest" (*loc. cit.* p. 236). In the earliest and probably the most important case (1826), in which the nature and extent of the widow's interest came under discussion by the Privy Council, *viz.*, Kasinath Bysack *v.* Hurrosundery Dossee, there was a difference of opinion amongst the Pundits; the Court Pundits stated that if a widow were to alienate the inherited property for other than the permitted purposes without the consent of her husband's relations, the alienation would be invalid; four other Pundits, on the other hand, stated that though she would incur *moral blame*, yet the act would be valid against the relations of the husband. In other words, in the opinion of these four Pundits, the *shastras* have merely imposed a moral duty and not a legal limitation upon the widow even in a Dayabhaga Province. Doubtless there are opinions on the other side also, *e.g.*, Dr. Altekar's conclusion is that while some *smritis* definitely limit a woman's estate, others are merely silent on the point. ("The Position of Women in Hindu Civilisation", 1938, p. 315.) But on the whole, it seems safe to state that *smriti* authority for the doctrine of the Hindu women's limited estate is not unequivocal.

In India, Muslim women, Christian women, Parsi women, and Jaina women, all take a full estate; it is difficult to maintain that Hindu women alone are incompetent to enjoy full rights. Whatever may have been the case in the past a general disability of this kind can hardly be defended at the present day, when we have women legislators, women lawyers and women Ministers.

The most serious aspects of this disability are (1) that it is one of the most fruitful sources of litigation in our Courts today, and (2) that for the sake of protecting the property when the woman is not in real need, it penalises her when, in a time of real need, she requires all the money she can get from the sale of the property. As to (1), we have Dr. Mitter's observation that "the cases relating to the extent ana nature of woman's estate which come before our Courts are more numerous than the other cases on Hindu law put together", an observation which is perhaps as true today as when he wrote. ("The position of Women in Hindu Law", 1913, page 526). As to (2), it may appear at first sight that as even under the existing law, a widow has full powers of alienation for legal necessity, she ought to get full value for her property. But it is notorious that she does not; for, if the reversioners do not join in the sale, the purchaser, not being sure of the legal necessity, cannot afford to pay the full value of the property, and in most cases the reversioners will not join unless they get a share of the price. The result is that although in theory the woman has full powers of alienation in such cases in practice she cannot realise the full value of the estate. "All purchasers from a Hindoo widow know or ought to know by this time the extreme risk of such a transaction, and if they choose to run it, and to buy, without consulting th next heirs, or without taking such further steps as would enable them at some future time, should necessity arise, to prove that they made diligent and careful enquiry as to the existence of a legal necessity before buying, they must take the consequences." [Mahomed Ashruff *v.* Brijassuree Dossee (1873), 19, W.R. 426]. The knowledge of this risk has, if anything, grown in the sixty or seventy years since this warning was uttered. Thus a limitation doubtless intended by its authors only to restrain waste when the owner is not in real need has in practice come to have the effect of reducing the value of her property when she is on real and urgent need.

We have considered various alternatives for remedying this mischief. One suggestion made to us is that a widow, proposing to sell for legal necessity, should apply to Court and that the Court after notifying the reversioners, should grant or refuse permission. If permission is granted, it is to be deemed conclusive proof of legal necessity, so that the purchaser is completely protected. The drawback to this plan is that the Court proceedings. will take time, particularly if reversioners come forward with objections. In practice this will mean that she must buy off the objectors if her need is urgent, besides incurring the ineviatable expenses of a Court proceeding. Another suggestion is that the right of challenging alienations should be confined to certain relations, instead of being given to all reversioners. In practice this will mean that the widow, when in real need, will have to share the price with the selected near relations. On the whole, the best solution seems to be to put Hindu women on a par with other women in Inaia who get full rights and to abolish the limited estate. The experience of the Jaina community, who seem to have carried the rights of the widow even further, appears to be encouraging. A writer on Jaina law states that the son in a Jaina household is placed in a subordinate position and postponed to his mother, who takes the paternal property as absolute owner and can give it way to anybody she likes. "The effect of this healthy rule is that the son has got to be well-behaved, obedient, and a model of virtue to win the favour of the mother." ("The Jaina Law" by Champak Rai Jain, 1926, page 12, foot-note.) This shows at any rate that the abolition of the limited estate need not spell disaster to the family.

A

BILL

to amend and codify certain branches of the Hindu Law

WHEREAS it is expedient to amend and codify certain branches of the Hindu Law as now in force in British India ;

It is hereby enacted as follows :—

PART I.—PRELIMINARY

1. **Short title, extent and commencement**—(1) this Act may be called the *Hindu Code.*

(2) It extends to the whole of British India.

(3) It shall come into force on the first day of January 1948.

2. **Application of Code.**—(1) This Code applies to all Hindus, that is to say, to all persons professing the Hindu religion in any of its forms or developments, including Virashaivas or Lingayats and members of the Brahmo, the Prarthana, or the Arya Samaj.

(2) It also applies to persons professing the Buddhist, Jaina or Sikh religion.

(3) (*a*) It shall be presumed, until the contrary is proved, that the whole of this Code applies to any person who is not a Muslim, Christian, Parsi or Jew by religion.

(*b*) Where it is proved that any such person, not being a Hindu, Buddhist, Jaina or Sikh by religion, is not governed by the Hindu Law or by any custom or usage as part of that Law in respect of all or any of the matters dealt with herein, this Code shall not apply to that person in respect of those matters.

(4) All references to the expression 'Hindu' in any portion of this Code shall be construed as if they included references to a person who is not a Hindu by religion but to whom such portion applies by virtue of the provisions in sub-sections (2) and (3).

Illustrations

(*a*) A convert to the Hindu religion is governed by this Code.

(*b*) A member of a Scheduled Caste is governed by this Code.

(*c*) A member of a hill tribe who is not a Muslim, Christian, Parsi or Jew by religion will be governed by this Code, if nothing is proved to the contrary.

(*d*) This Code applies to a child, legitimate or illegitimate, both of whose parents are governed by it. If only one of the parents is so governed, this Code would apply to the child if he or she is brought up as a member of the community, group or family to which such parent belongs or belonged.

(*e*) This Code applies to a Hindu, Buddhist, Jaina or Sikh, who has merely deviated from the orthodox practices of his religion or expressed disbelief in any of the tenets thereof, but has not embraced the Muslim, Christian, Zoroastrian or Jewish religion.

3. **Operation of Code in relation to previous customs and usages.**—In regard to any of the matters dealt with in this Code, its provisions shall supersede any custom or usage not hereby expressly saved.

4. **"Custom" and "Usage" defined.**—In this Code the expressions "custom" and "usage" signify any rule which having been continuously and uniformly observed for a long time, has obtained the force of law among the Hindus in any local area, community, group, or family :

Provided that the rule is certain and not unreasonable or opposed to public policy :

Provided further that in the case of a rule applicable only to a family, it has not been discontinued by the family.

5. **Other definitions.**—In this Code,—unless there is anything repugnant in the subject or context—

(*a*) " agnate "—one person is said to be an agnate (*gotraja*) of another if the two are related by blood or adoption wholly through males ;

(*b*) " caste " means one of the four primary *varnas* or castes recognized by Hindu Law before the commencement of this Code, and does not refer to any sub-caste ;

(*c*) " *cognate* "—one person is said to be a cognate (*bandhu*) of another, if the two are related by blood or adoption but not wholly through males ;

(*d*) " District Court " means the principal Civil Court of original jurisdiction and includes the High Court in the exercise of its ordinary original civil jurisdiction ;

(*e*) " full blood " and " half blood "—two persons are said to be related to each other by full blood when they are descended from a common ancestor by the same wife, and by half blood when they are descended from a common ancestor but by different wives ;

" uterine blood "—two persons are said to be related to each other by uterine blood when they are descended from a common anscestress but by different husbands ;

Explanation.—In this clause, " anscester " includes the father and " ancestress " the mother ;

(*f*) " *gotra* " and " *pravara* " have the same meanings as in the Hindu Law before the commencement of this Code ;

(*g*) "intestate "—a person is deemed to die intestate in respect of all property of which he or she has not made a testamentary disposition capable of taking effect ;

(*h*) " Part " means any Part of this Code ;

(*i*) " related " means related by legitimate kinship, provided that illegitimate children shall be deemed to be related to their mother and to one another, and their legitimate descendant shall be deemed to be related to them and to one another ; and any word expressing relationship or denoting a relative shall be construed accordingly ;

(*j*) " stridhana " means the property of a woman, howsoever acquire, whether by inheritance or devise, or at a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, whether a relative or not, before, at, or after her marriage, or by her own skill or exertions, or by purchase, of the prescription or by any other mode.

6. **Amendment of Act III of 1872.**—The Special Marriage Act 1872 (III of 1872) is hereby amended to the extent specified in the fourth column of the First Schedule.

7. **Repeals.**—The enactments specified in the Second Schedule are hereby repealed to the extent specified in the fourth column thereof.

PART II—INTESTATE SUCCESSION

INTRODUCTORY

1. **Part not to apply in certain cases.**—This Part shall not apply—

(*i*) to agricultural land, or

(*ii*) to ay estate which descends to a single heir by a customary rule of succession or by the terms of any grant or enactment, or

(*iii*) to any property of a Hindu governed by the *Marumakkattayar-Aliyasantana* or *Nambudri* law of inheritance.

2. **Definitions and Interpretation.**—(1) In this Part, unless there is anything repugnant in the subject or context—

(*a*) "heir" means any person, male or female, who is entitled to succeed to the property of an intestate under this Part;

(*b*) "heritable property" means all property or interest in property, which belongs to an intestate in his or her own right and passes by inheritance;

(*c*) "son" includes a *dattaka, kritrima* or *godha* son and also a *dwyamushyayana,* or an *illatom* son adopted before the commencement of this Code, but not a *dasiputra*; the expressions "*dattaka* son", "*Kritrima* son", "*godha* son" "*dwyamshyayana* son", and "*dasiputra*" have the same meanings as in the Hindu Law before the commencement of this Code and the expression "*illatom* son" has the same meaning as in customary law before such commencement.

(2) In this Part, unless there is anything repugnant in the subject or context, words importing the masculine gender shall not be taken to include females.

(3) For the purpose of this Part—

(*a*) the domicile of a Hindu shall be determined in accordance with the provisions contained in sections 6 to 18, both inclusive, of the Indian Succession Act, 1925 (XXXIX of 1925);

(*b*) when an adoption takes place—

(*i*) in the case of a *dattaka* son, the natural tie is seveared and replaced by the tie created by the adoption,

(*ii*) in the case of a *dwyamushyayana* son, the natural tie continues side by side with the tie created by the adoption,

(*iii*) in the case of a *kritrima or godha* or an *illatom* son, the natural tie continues while the tie created by the adoption is limited to the person adopted and the person adopting him.

Illustration

A adopts C, son of B, C has a son, D. Then, for the purposes of inheritance, the following consequences will ensue, depending upon whether C was adopted as a *dattaka*, a *dwyamushyayana*, a *kritrima* or *godha* or an *illatom* son of A.

If C is adopted as a *dattaka* son, he becomes the son of A and ceases to be the son of B. He ceases to be the grandson of B's father and the nephew of B's brother and becomes the grandson of A's father and the nephew of A's bother. Likewise, D becomes the grandson of A but not of B.

If C is adopted as a *dwyamushyayana* son, he becomes the son of A, but continues to be the son of B as well. He also becomes the grandson of A's father and the nephew of A's brother, but continues as well to be the grandson of B's father and the nephew of B's brother. Likewise, D becomes the grandson of A and of B as well.

If C is adopted as a *kritrima* or *godha* or an *illatom* son, he becomes the son of A while continuing to be the son of B as well. He does not, however, becomes the grandson of A's father or the nephew of A's brother, but remains the grandson of B's father and the nephew of B's brother. Likewise, D becomes the grandson of B but not of A.

3. **Application of Part.**—Save as provided in section 1, this Part regulates the succession to the heritable property of a Hindu dying intestate after the commencement of this Code in the following cases, namely :—

(*a*) Where the property is moveable property, unless it is proved that the intestate was not domiciled in British India at the time of his or her death.

(*b*) Where the property is immovable property situated in British India, whether the intestate was domiciled in British India at the time of his or her death or not :

Provided that upon the death of any woman who, at the commencement of this Code, had the limited estate known as the Hindu woman's estate in any property, such property shall devolve on the persons who, under this Part, would have been the heirs of the last full owner thereof, if such owner had died intestate immediately after her.

SUCCESSION TO THE PROPERTY OF MALES

4. **Devolution of heritable property of males.**—The heritable property of a male intestate shall devolve according to the rules laid down in this Part—

(*a*) upon the enumerated heirs referred to in section 5, if any ;

(*b*) if there is no enumerated heir, upon his agnates, if any ;

(*c*) if there is no agnate, upon his cognates, if any ;

(*d*) if there is no cognate, upon the heirs referred to in section 10, if any.

5. **Enumerated heirs.**—(1) The following relatives of an intestate are his enumerated heirs :—

Class I—Heirs in the compact series—

(1) Son, widow, daughter ; son and widow of a predeceased son ; son and widow of a predeceased son of a predeceased son.

(2) Daughter's son.

(3) Mother.

(4) Father.

(5) Brother.

(6) Brother's son.

Class II—Other descendants—

(1) Son's daughter.

(2) Daughter's daughter.

(3) Son's daughter's son.

(4) Son's son's daughter.

(5) Son's daughter's daughter.

(6) Daughter's son's son.

(7) Daughter's son's daughter.

(8) Daughter's daughter's son.

(9) Daughter's daughter's daughter.

Class III—Other descendants of Father—

(1) Brother's son's son.

(2) Sister.

(3) Sister's son.

(4) Brother's daughter.

(5) Sister's daughter.

Class IV—Father's mother, father's father and his descendants—

(1) Father's mother.

(2) Father's father.

(3) Father's brother.

(4) Father's brother's son.

(5) Father's brother's son's son.

(6) Father's sister.

(7) Father's sister's son.
(8) Father's brother's daughter.
(9) Father's sister's daughter.

Class V—Father's father's mother, father's father's father and his descendants—

(1) Father's father's mother.
(2) Father's father's father.
(3) Father's father's brother.
(4) Father's father's brother's son.
(5) Father's father's brother's son's son.
(6) Father's father's sister.
(7) Father's father's sister's son.
(8) Father's father's brother's daughter.
(9) Father's father's sister's daughter.

Class VI—Mother's mother, mother's father and his descendants—

(1) Mother's mother.
(2) Mother's father
(3) Mother's brother.
(4) Mother's brother's son.
(5) Mother's brother's son's son.
(6) Mother's sister.
(7) Mother's sister's son.
(8) Mother's brother's daughter.
(9) Mother's sister's daughter.

(2) In the Province of Bombay, sub-section (1) shall have effect as if—

(*i*) in class IV, between the father's mother and the father's father, the following heirs had been inserted, namely :—

"(1A) Father's widow.
(1B) Brother's widow.
(1C) Brother's son's widow.
(1D) Brother's son's son's widow" ;

(*ii*) in class V, between the father's father's mother and the father's father's father, the following heirs had been inserted, namely :—

"(1A) Father's father's widow.
(1B) Father's brother's widow.
(1C) Father's brother's son's widow.
(1D) Father's brother's son's son's son's widow" ; and

(*iii*) after class V, the following class had been inserted, namely :—

"Class VA—Widows of certain *gotraja sapindas* :—

(1) Father's father's father's widow.
(2) Father's father's brother's widow.
(3) Father's father's brother's son's widow.
(4) Father's father's brother's son's son's widow."

(3) In sub-sections (1) and (2), references to a "brother" or "sister" do not include references to a brother or sister by uterine blood.

6. **Order of succession among enumerated heirs.**—Among the enumerated heirs, those in one Class shall be preferred to those in any succeeding Class; and within each class, those included in one entry shall be preferred to those included in any succeeding entry, while those included in the same entry shall take together.

Illustrations

(*i*) The surviving relatives of an intestate are his widow, his sister and his father's father. The widow who is included in Class I is preferred to the sister who is in Class III and the father's father who is in Class IV.

(*ii*) The surviving relatives are three sons, two grand sons by a pre-deceased son, and the widow of another predeceased son. All of them being enumerated heirs included in entry (1) of Class I succeed simultaneously, no one excluding the others.

(*iii*) The surviving relatives are a widow, two sons, three daughters, two grandsons by a pre-deceased son and a great-grand-daughter by another pre-deceased son's pre-deceased son. All of them, except the last, being enumerated heirs included in entry (1) of Class I, succeed simultaneously. The great-grand-daughter who is in entry (4) of Classs II does not take anything.

(*iv*) In the Province of Bombay, the father's widow (step-mother) who is in Class IV is preferred to the mother's mother who is in Class VI.

7. **Manner of distribution among enumerated heirs in entry (1) of Class I.**—The distribution of an intestate's property among the enumerated heirs in entry (1) of Class I above shall take place according to the following rules, namely :—

Rule 1.—The intestate's widow, or if there is more than one widow, all the widows together, shall take one share.

Rule 2.—Each surviving son of the intestate shall take one share, whether he was undivided or divided from the intestate or re-united with him.

Rule 3.—(1) The heirs in the branch of each predeceased son of the intestate shall take between them one share if there is a son or son's son of such predeceased son, and half a share in other cases.

(2) The distribution of the share or half-share aforesaid among the heirs in the branch of a predeceased son shall be made so that his widow (or widows together) and each of his surviving sons get equal portions and the branch of each of his predeceased sons get the same portion if it contains a son of such predeceased son and one-half of such portion in other cases.

Rule 4.—Each surviving daughter of the intestate shall take half-a-share whether she is unmarried, married or a widow; rich or poor; and with or without issue or possibility of issue.

Illustrations

(*i*) The surviving heirs of an intestate are three sons, A, B and C, five grandsons by a pre-deceased son D and two great-grandsons by a pre-deceased son of another pre-deceased son E. A, B and C take one share each under Rule 2, and the branches of D and E get one share each under Rule 3(1). The grandsons in D's branch and the great-grandsons in E's branch divide the share allotted to their respective branches equally by virtue of Rule 3(2). Each son of the intestate therefore takes one-fifth of the heritable property, each grandson one-twentyfifth, and each great-grandson one-tenth.

(*ii*) Only a widow or daughter survives an intestate. She takes the whole of the heritable property.

(*iii*) The surviving heirs are a widow and two grandsons by a pre-deceased son. The widow takes one share under Rule 1, and the grandsons together take one share under Rule 3(1). The widow therefore takes one-half of the heritable property and each grandson one-fourth.

(*iv*) The surviving heirs are a daughter and the widow of a pre-deceased son. Under Rule 4 the daughter takes half-a-share; and under Rule 3 (1), the daugher-in-law also takes half-a-share. The heritable property is thus equally divided between the two.

(*v*) The surviving heris are a son, a daughter, and the widow of a pre-deceased son. Under Rule 2 the son gets one share; under Rule 4, the daughter gets half-a-share; under Rule 3(1) the widow of the pre-deceased son gets half-a-share. In the result, the son takes half the property and the daughter and the daughter-in-law take one-fourth each.

(*vi*) The surviving heirs are a son, a daughter, and the widow and the son of a pre-deceased son. Under Rule 2, the son gets one share; under Rule 4 the daughter gets half-a-share; under Rule 3(1) the widow and the son of the pre-deceased son get between them one share, which has then to be distributed equally between them. In the result, the son takes two-fifths of the property and the other heirs one-fifth each.

(*vii*) The surviving heirs are—

(*a*) a widow.

(*b*) a son.

(*c*) a daughter.

(*d*) the widow of a pre-deceased son.

(*e*) the widow and two sons of another pre-deceased son.

Under Rule 1, the widow gets one share; under Rule 2, the son gets one share; under Rule 4, the daughter gets half-a-share; under Rule 3(1), the widow of the first mentioned pre-deceased son—(*d*) above—gets half-a-share; under the same Rule, the heirs mentioned in (*e*) above between them get one share, which has then to be distributed equally among them. In the result, the widow and the son of the intestate each take one-fourth of the property; the daughter and the daughter-in-law mentioned in (*d*) each take one-eighth; and the remaining heirs each take one-twelfth.

(*viii*) The surviving heirs are—

(*a*) a son.

(*b*) the widow and three sons of a pre-deceased son.

(*c*) the widow of a pre-deceased son of the pre-deceased son referred to in (*b*).

The son gets one share under Rule 2, and the heirs in entries (*b*) and (*c*) together, get one share. The latter share should be distributed, by virtue of Rule 3(2), so that the widow and each of the sons in entry (*b*) get one portion each and the widow in entry (*c*) gets one-half of such a portion. In the result, the intestate's son gets one half of the heritable property, the widow of his predeceased son gets one-ninth, each of the three sons of such pre-deceased son also gets one-ninth, and the widow of the intestate's grandson gets one-eighteenth.

8. **Order of succession among non-enumerated heirs.**—(1) Where there is no enumerated heir, the order of succession among the intestate's agnates, or failing such agnates, among his cognates, shall be determined by applying the Rules of Preference in section 9.

(2) For the purpose of applying the said Rules, relationship shall be reckoned from the intestate to the heir in terms of degrees of assent, or degrees of descent, or both, as the case may be.

(3) Degrees of ascent and degrees of descent shall be computed in the manner indicated in the illustrations below :—

Illustrations

(*i* The heir to be considered is the father's mother's father of the intestate. He has no degrees of descent, but has three degrees of ascent represented in order by (1) the intestates' father, (2) that father's mother, and (3) her father the heir).

(*ii*) The heir to be considered is the father's mother's father's mother of the intestate. She has no degrees of descent, but has four degrees of ascent represented in order by (1) the intestate's father, (2) that father's mother, (3) her father, and (4) his mother (the heir).

(*iii*) The heir to be considered is the son's daughter's son's daughter of the intestate. She has no degrees of ascent, but has four degrees of descent represented in order by (1) the intestate's son, (2) that son's daughter, (3) her son, and (4) his daughter (the heir).

(*iv*) The heir to be considered is the mother's father's father's daughter's son of the intestate. He has three degrees of ascent represented in order by (1) the intestate's mother, (2) her father, and (3) that father's father, and two degrees of descent represeted in order by (1) the daughter of the common ancestor, *viz*, the mother's father's father and (2) her son (the heir).

9. **Rules of Preference.**—The Rules of Preference referred to in section 8 are as follows :—

Rule 1.—Of two heirs, the one who has fewer or no degrees of ascent is preferred.

Rule 2.—Where the number of degrees of ascent is the same or none, that heir is preferred who has fewer or no degrees of descent.

Rule 3.—Where the number of degrees of descent is also the same or none, the heir who is the male line is preferred to the heir who is in the female line at the first point (counting from the intestate to the heir) where the lines of the two heirs can be so distinguished.

Rule 4.—Where the two lines cannot be so distinguished, the heir who is a male is preferred to the heir who is a female.

Rule 5.—Where neither heir is entitled to be preferred to the other under the foregoing Rules, they take together.

Illustrations

In the following illustrations, the letters F and M stand for the father and mother respectively in that portion of the line which ascends from the intestate to the common ancestor, and the letters S and D for the son and daughter respectively in that portion of the line which descends from the common ancestor to the heir. Thus MFSS stands for the intestate's mother's father's son's son (mother's brother's son) and FDS for the intestate's father's daughter's son (sister's son).

(*i*) The competing heirs are (1) FFSSD (father's brothers' son's daughter) and (2) FDDS (sister's daughter's son). Although No. (2) is descended from a nearer ancestor, yet, as No. (1) is an agnate while No. (2) is only a congate, No. (1) is preferred to No. (2).

(*ii*) The competing heirs are (1) SDSS (son's daughter's son's son) and (2) FDDS (sister's daughter's son.) No. (1) who has no degree of ascent is preferred to No. (2) who has one degree of ascent.

(*iii*) The competing heirs are (1) FDDD (sister's daughter's daughter) and (2) MFSSD (maternal uncle's son's daughter). The former who has one degree of ascent is preferred to the latter who has two such degrees.

(*iv*) The competing heirs are (1) FDSSS (sister's son's son's son) and (2) MFSSD (maternal uncle's son's daughter). The former who has only one degree of ascent is preferred to the leatter who has three such degrees.

(*v*) The competing heirs are (1) MFDSS (mother's sisters' son's son) and (2) MFFDS (mothers father's sister's son). The former who has two degrees of ascent is preferred to the latter who has there such degrees.

(*vi*) The competing heirs are (1) MFM (mother's father's mother) and (2) FFFDSS (father's father's sister's son's son). The number of degrees of ascent in both cases is the same, *viz.*, there but the former has no degree of descent while the latter has three such degrees. The former is therefore preferred.

(*vii*) The competing heirs are (1) FMF (father's mother's father) and (2) MFF (mother's father's father). The number of degrees of ascent in both the cases is the same, and there are no degrees of descent. The lines of the two heirs diverge at the very first point, No. (1) being in the male line and No. (2) in the female line. No. (1) is preferred to No. (2).

(*viii*) The competing heirs are (1) FDSS (sister's son's son) and (2) FDDS (sister's daughter's son). The heirs are equally near both in ascent and descent. The dissimilarity in the lines occurs at the third point. At this point, No. (1) is in the male line and No. (2) in the female line. No. (1) is therefore preferred.

(*ix*) The competing heirs are (1) FMFSS (father's mother's father's son) and (2) FMFDS ather's mother's sister's son). The former is preferred.

(*x*) The competing heirs are (1) FDDS (sister's daughter's son) and (2) FDDD (sister's daughter's daughter). The former is preferred.

(*xi*) The competing heirs are a daughter's daughter's son of one sister (FDDDS) and a daughter's daughter's son of another sister (FDDS). Both of them take the estate in equal shares.

10. **Heirs who are not related.**—If there is no enumerated heir, agnate or cognate entitled to succeed under section 4, the heritable property of the intestate shall devolve, in the first instance, upon his preceptor (*acharya*); if there is no preceptor, upon the intestate's disciple (*sishya*); and if there is no disciple, upon the intestate's fellow student (*sa-brahma-chari*).

Explanation.—For the purposes of this section, the imparting or receiving of purely religious instruction at the house of the preceptor (*acharya*) or of the same preceptor (*acharya*), as the case may be, shall alone be taken into account.

11. **Rules for hermits, etc.**—(1) Where a person completely and finally renounces the world by becoming a hermit (*vanaprastha*) an ascetic (*yati or sanyasi*), or a perpetual religious student (*naishthika brahmachari*), his property shall devolve upon his heirs, in the same order and according to the same rules as would have applied if he had died intestate in respect thereof at the time of such renunciation.

(2) Any property acquired by such a person after his renunciation shall devolve on his death, not upon his relatives, but as follows :—

(*a*) In the case of hermit (*vanaprastha*), upon a spiritual brother belonging to the same hermitage (*dharmabhratraikatirtha*).

(*b*) In the case of an ascetic (*yati or sanyasi*), subject to any custom or usage governing the case, upon his virtuous disciple (*sacchishya*).

(*c*) In the case of a perpetual religious student (*naishthika brahmachari*), upon his preceptor (*acharya*).

12. **Application of Partition Act, 1893, in certain cases.**—Where, after the commencement of this Code, a share in any immoveable property of a male intestate or in any business carried on by him, whether solely or in conjunction with others, devolves upon one or more of the intestate's sons, son's sons, or son's son's sons together with other relatives, and one of the latter sues for partition, the provisions of the Partition Act, 1893 (IV of 1893), shall apply as if he or she were the transferee of a share of a dwelling-house and the intestate's family were an undivided one.

13. **Rights of women over stridhana.**—A woman shall have the same rights over *stridhana* acquired by her after the commencement of this code, including the right to dispose of it by transfer *inter vivos* or by will, as a man has over property acquired by him in the like manner, that is to say, a woman's rights over *stridhana* shall not be deemed to be restricted in any respect whatsoever by reason only of her sex.

Illustrations

(*i*) A Hindu dies intestate leaving a widow or daughter as his heir. She inherits his entire estate under this part. By virtue of the above section, she will have full rights therein as if she were a male heir.

(*ii*) A Hindu dies, leaving a will by which he confers upon his widow a life estate in his property with no power of alienating the *corpus*. She will succeed only to a life estate under this section. The reason is that even if a man had succeeded to the property in the like manner, that is to say, by a similar provision in the will, he too would have taken only a life estate ; the restriction in this case is not by reason of the widow's sex but by reason of the provision in the will.

14. **Order and mode of succession to stridhana.**—(1) The *stridhana* of a woman dying intestate, in so far as it consists of heritable property, shall, subject to the proviso to section 3, devolve upon the following relatives of the intestate, in the order mentioned, namely :—

(1) Daughter ; son ;

(2) Grand child ;

(3) Husband ;

(4) Mother ;

(5) Father ;

(6) Husband's heirs, in the same order and according to the same rules as would have applied, if the property had been his and he had died intestate in respect thereof immediately after his wife ;

(7) Mother's heirs, in the same order and according to the same rules as would have applied, if the property had been hers and she had died intestate in respect thereof immediately after her daughter ;

(8) Father's heirs, in the same order and according to the same rules as would have applied if the property had been his and he had died intestate in respect thereof immediately after his daughter.

(2) Whereof two or more heirs of the intestate, no one is entitled to be preferred to any other under the provisions of sub-section (1), they shall take together.

(3) (*i*) In *stridhana* devolving on children under entry (1) in sub-section (1), a son shall take half the share of a daughter.

(*ii*) Grandchildren shall take *stridhana* devolving on them under entry (2) in sub-section (1) *per stirpes*, that is to say, the grandchildren by each deceased son or daughter shall take the share which he or she would have taken if he or she had been alive at the time of the intestate's death, the distribution among grandchildren by the same son or daughter being made so that each grandson takes half the share of a grand-daughter.

(4) A daughter, son's daughter or daughter's daughter shall take the same share whether she is unmarried, married or a widow ; rich or poor ; and with or without issue or possibility of issue.

Illustrations

(*i*) The surviving relatives of a woman are four married grand-daughters by one daughter, A, and three unmarried grand-daughters by another daughter, B. Each of A's daughters takes 1/8th of the property and each of B's daughters takes 1/6th.

(*ii*) The surviving relatives of a woman are a son by one-daughter, A, and a daughter by another daughter, B. A's son and B's daughter take equally.

(*iii*) The surviving relatives of a woman are a son and two daughters by a son, A, and three sons and four daughters (two of whom are married) by a daughter, B. A's son takes 1/15th of the property, each of A's two daughters takes 2/15ths; each of B's three sons takes 2/33rds, and each of B's four daughters takes 4/33rds.

(*iv*) A maiden dies leaving a mother and a brother. Her property goes to the mother.

GENERAL PROVISIONS

15. **Full blood preferred to half blood.**—Heirs related to an intestate by full blood shall be preferred to heirs related by half blood, if the nature of the relationship is the same in every other respect.

Explanation.—In the Province of Bombay, the widow of a person related to an intestate by full blood shall be preferred to the widow of a person related to him in the same way by half blood.

Illustrations

(*i*) A brother by full blood is preferred to a brother by half blood; but a brother by half blood ucceeds before a brother's son by full blood, a brother being a nearer heir than a brother's son.

(*ii*) A paternal uncle by half blood is preferred to a paternal uncle's son by full blood, an uncle being a nearer heir than an uncle's son.

(*iii*) A full brother's daughter's daughter is preferred to half brother's daughter's daughter but the former is not preferred to a half brother's daughter's son, as the nature of the relationship is not the same in the two cases. The latter, who is a nearer heir by virtue of Rule 4 in section 9, is preferred although he is only related by half blood.

(*iv*) In Bombay, a full brother's widow is preferred to a half brother's widow.

16. **Right of child in womb.**—A person who was in the womb at the time of the death of an intestate and who is subsequently born alive shall have the same right to inherit to the intestate as if he or she had been born before the death of the intestate. The inheritance shall be deemed to vest in such a case with effect from the date of the death of the intestate.

17. **Righs of surviving spous and descendants of a valid marriage.**—The surviving spouse and descendants of a valid marriage contracted by a male or female Hindu outside his or her caste, if any, shall, for all the purposes of this Code have the same rights as if the marriage had been contracted within his or her own caste.

18. **Hermit, disqualified.**—A person who has completely and finally renounced the world in any of the modest set forth in sub-section (1) of section 11 shall be disqualified from inheriting the property of any of his relatives by blood, marriage or adoption.

19. **Unchaste wife disqualified.**—A woman who, after marriage, has been unchaste during her husband's lifetime, shall, unless he has condoned the unchastity, be disqualified from inheriting his property :

Provided that the right of a woman to inherit to her husband shall not be questioned on the above ground, unless a Court of Law has found her to have been unchaste as aforesaid in a proceeding to which she and her husband were parties and in which the matter was specifically in issue, the finding of the Court not having been subsequently reversed.

20. **Murderer disqualified.**—A person who commits murder or abets the commission of murder shall be disqualified from inheriting the property of the person murdered, or any other property in furtherance of the succession to which he or she committed or abeted the commission of the murder.

21. **Convert's descendants disqualified.**—Where before or after the commencement of this Code, a Hindu has ceased or ceases to be one by conversion to another religion, children born to him or her after such conversion and their descendants shall be disqualified from inheriting the property of any of their Hindu relatives, unless such children or descendants are Hindus at the time when the succession opens.

22. **Succession when heir disqualified.**—If any person is disqualified from inheriting any property under sections 18, 19, 20 or 21, it shall devolve as if such person had died before the intestate.

23. **Disease, defect, etc., not to disqualify.**—No person shall be disqualified from succeeding to any property on the ground of any disease, defect or deformity, or save as provided in sections 18, 19, 20 or 21, or any other ground whatsoever.

24. **Mode of succession of two or more heirs.**—If two or more heirs succeed together to the property of an intestate, they shall take the property—

(*a*) save as otherwise expressly provided in this Part, *per capita*, and not *per stripes* ; and

(b) as tenants in common and not as joint tenants.

25. **Escheat.**—If an intestate has left no heir, or no heir qualified to succeed to his or her heritable property, such property shall go to the Crown ; and the Crown shall take the property subject to all the obligations and liabilities to which an heir would have been subject.

PART III.—TESTAMENTARY SUCCESSION

Indian Succession Act, 1925, and other enactments to apply to testamentary succession of Hindus.—In regard to testamentary succession, Hindus shall be governed by such provisions of the Indian Succession Act, 1925 (XXIX of 1925) and other enactments as may for the time being, be applicable to them.

PART III-A.—GENERAL PROVISIONS CONNECTED WITH SUCCESSION

DIVISION I.—SCOPE AND OPERATION OF PARTS II AND III

1. **Devolution of interest in joint family property.**—Any interest in joint family property (other than property excluded from the operation of Part II by section 1 thereof) possessed by a male Hindu dying after the commencement of this Code, shall devolve in every case, not by survivorship, but by testamentary or intestate succession, as the case may be.

Illustrations

A male Hindu who was a member of a joint family governed by the Mitakshara, School of Hindu Law when this Code comes into operation dies intestate, leaving him surviving a widow and a daughter but no son or descendant of a son. His interest in the joint family property, other than agricultural land, will pass to the widow and daughter by succession, and not to the other coparceners by survivorship.

2. **No right by birth in property devolving after commencement of Code.**—Where after the commencement of this Code, the property of any male Hindu (including his interest in joint family property) devolves by testamentary or intestate succession on his son, son's son, or son's son's son, the latter shall take the property in the same manner and have the same right to dispose of it by transfer *inter vivos* or by will as he would have had if he had not taken so related to the deceased.

DIVISION II.—MAINTENANCE

3. **Maintenance explained.**—In sections 4 to 9, the expression "maintenance" includes—

(*i*) in all cases, provision for food, clothing, residence, education, and medical attendance and treatment; and

(*ii*) in the case of an unmarried daughter, also the reasonable expenses of an incident to her marriage, including the value of gifts and presents to her or to the bridegroom on the occasion.

4. **Right to maintenance of certain dependants out of estate of deceased.**—Where a dependant has not obtained by testamentary or intestate succession, any share in the estate of a male Hindu dying after the commencement of this Code, or where, in a case of testamentary succession, the share so obtained by a dependant is less than what would be awarded to him or her by way of maintenance under this Part, he or she is entitled, subject to the provisions of this Part, to maintenance from those who take the estate, the liability of each being in proportion to the value of the share or part of the estate taken by him or her :

Provided that no person who is himself or herself a dependant shall be liable to contribute to the maintenance of others, if he or she has obtained a share or part the value of which is, or would if the liability to contribute were enforced become less than what would be awarded to him or her by way of maintenance under this Part.

5. **Dependants enumerated.**—(1) The following relatives of the deceased shall be deemed to be his dependants for the purposes of the foregoing section :—

(*i*) His father.

(*ii*) His mother.

(*iii*) His widow, so long as she does not remarry.

(*iv*) His son, son of his predeceased son, or son of a predeceased son of his predeceased son, who is a minor, so long as he remains one, provided and to the extent that he is unable to obtain maintenance, in the case of a grandson, from his father's estate, and in the case of great-grandson, from the estate of his father or father's father.

(*v*) His unmarried daughter, so long as she remains unmarried.

(*vi*) His married daughter, provided and to the extent that she is unable to obtain maintenance from her husband or from her son, if any, or his estate.

(*vii*) His widowed daughter provided and to the extent that she is unable to obtain maintenance (a) from the estate of her husband, or (b) from her son, if any, or his estate, or (c) from her father-in-law, or his father or the estate of either of them.

(*viii*) Any widow of his son or of a son of his predeceased son, so long as she does not remarry, provided and to the extent that she is unable to obtain maintenance from her husband's estate, or from her son if any, or his estate ; or in the case of a grandson's widow, also from her father-in-law's estate.

(*ix*) His minor illegitimate son, so long as he remains a minor.

(*x*) His unmarried illegitimate daughter, so long as she remains unmarried.

(2) A concubine who was kept continuously by the deceased up to the time of his death and whose connection with him was not incestuous or adulterous shall also be deemed to be a dependant for the purposes of sub-section (1), unless she becomes the concubine of another man, or leads the life of a prostitute, or marries or remarries.

6. **Amount of maintenance,**—(1) In determining the amount of maintenance if any, to be awarded to a dependant, regard shall be had to—

(*a*) the net value of the estate of the deceased, after providing for the payment of his debts ;

(*b*) the share, if any, of such estates obtained by the dependant ;

(*c*) the position and status of the deceased and of the dependant ;

(*d*) the degree of relationship between the two ;

(*e*) the reasonable wants of the dependant ;

(*f*) the past relations between the dependant and the deceased ;

(*g*) in the case of a widow of the deceased, the income, if any, which she may reasonably be expected to derive from *stridhana* given to her by him or his father, but not the income from her own earnings or any other source ; and

(*h*) in the case of any other dependant, the value of his or her separate property (including, in the case of a woman, *stridhana* of all kinds) and any income derived from such property, or from his or her own earnings, or from any other source :

Provided that the marriage expenses admissible in respect of an unmarried daughter, shall in no case exceed the value of one-half of what she would have inherited from the deceased, if he had died intestate.

(2) It shall be in the discretion of the Court to determine whether any, and if so what, maintenance shall be awarded to a dependant, with due regard to the considerations set out in sub-section (1), so far as they are applicable.

(3) The amount of maintenance, whether fixed by a decree of Court or by agreement, either before or after the commencement of this Code may be altered subsequently, if there is a material change in the circumstances, justifying such alteration.

7. **Maintenance of widow residing outside family house.**—Where a widow of the deceased, in contravention of the terms of a will or deed executed by him, resides elsewhere than in his family house without just cause, she shall not be entitled to any maintenance so long as she so resides.

8. **Debts to have priority.**—Debts of every description contracted or payable by the deceased shall have priority over the claims of his dependants for maintenance under this Division.

9. **Maintenance when to be a charge.**—A dependant's claim for maintenance under the above provisions shall not be a charge on the estate of the deceased or any portion thereof, unless one has been created by the will of the deceased, by a decree of Court, by agreement between the dependant and the owner of the estate or portion, or otherwise.

DIVISION III.—PRESUMPTION OF SURVIVORSHIP IN REGARD TO CLAIMS TO PROPERTY

10. Where two persons have died in circumstances rendering it uncertain whether either of them, and if so which, survived the other, then, for all purposes affecting succession to property, it shall be presumed, until the contrary is proved, that the younger survived the elder.

PART IV.—MARRIAGE AND DIVORCE

CHAPTER I.—CELEBRATION OF MARRIAGE

Introductory

1. **Interpretation.**—In this Part, unless there is anything repugnant in the subject or context—

(a) (*i*) "*sapinda* relationship" with reference to any person extends as far as the third generation (inclusive) in the line of ascent through the mother, and the fifth (inclusive) in the line of ascent through the father, the line being traced upwards in each case from the person concerned, who is to be counted as the first generation;

(*ii*) two persons are said to be "*sapindas*" of each other if one is a leneal ascendant of the other within the limits of *sapinda* relationship, or if they have a common lineal ascendant who is within the limits of *sapinda* relationship with reference to each of them.

(b) two persons are said to be within "the degrees of prohibited relationship" if one is a lineal ascendant of the other, or was the wife or husband of a lineal ascendant or descendant of the other, or if the two are brother and sister, uncle and niece, aunt and nephew, or the children of two brothers or of two sisters.

Explanation.—For the purposes of clauses (a) and (b), relationship includes—

(*i*) relationship by half or uterine blood as well as by full blood;

(*ii*) illegitimate blood relationship as well as legitimate;

(*iii*) relationship by adoption as well as by blood;

and all terms of relationship in those clauses shall be construed accordingly.

Illustrations

(*i*) C, the common ancestor, is the father's mother's father's father of A and the mother's father of B. As C is the fifth generation from A in A's father's line and the third generation from B in B's mother's line, A and B are *sapindas* of each other.

(*ii*) A and B are conanguine brother and sister. Their descendants, within the limits of *sapinda* relationship, will be *sapindas* of each other. The descendants of their father and his ancestors will also be *sapindas* of A and B and their descendants within the limits of *sapinda* relationship. But the maternal grand-father of A will not necessarily be a *sapinda* of the maternal grand-father of B, nor will a son of the former maternal grand-father necessarily be a *sapinda* of a son of the latter.

(*iii*) A and B are *uterine* brother and sister. Their descendants, within the limits of *sapinda* relationship, will be *sapindas* of each other. The descendants of their mother and her ancestors will also be *sapindas* of A and B and their descendants within the limits of *sapinda* relationship. But the paternal grand-father of A will not necessarily be a *sapinda* of the paternal grand-father of B, nor will a son of the former paternal grand-father necessarily be a *sapinda* of a son of the latter.

2. **Two forms of Hindu marriage.**—There shall be two forms of the Hindu marriage, namely :—

(*a*) a sacramental marriage ;

(*b*) a civil marriage.

SACRAMENTAL MARRIAGE

3. **Requisites of a sacramental marriage.**—A sacramental marriage may be solemnized between any two Hindus upon the following conditions, namely :—

(1) neither party must have a spouse livig at the time of the marriage ;

(2) neither party must be an idiot or a lunatic at the time of the marriage ;

(3) the bridegroom must have completed the age of eighteen years, and the bride the age of fourteen years ;

(4) the parties must not be within the degrees of prohibited relationship ;

(5) the parties must not be *sapindas* of each other, unless the custom or usage governing each of them permits of a sacramental marriage between the two ; and

(6) if the bride has not completed her sixteenth year, the consent of her guardian in marriage must have been obtained for the marriage.

Explanation.—For the removal of doubts, it is hereby declared that a sacramental marriage solemnized between Hindus before the commencement of this Code which is otherwise valid, shall not be deemed to be invalid or ever to have been invalid, by reason only of the fact that the parties thereto belonged to the same *gotra* or *pravara*, or belonged to different subdivisions of the same caste.

4. **Ceremonies required.**—(1) A sacramental marriage may be solemnized in accordance with the customary rites and ceremonies of either party thereto.

(2) Where such rites and ceremonies include the *saptapadi* (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire), the marriage becomes complete and binding when the seventh step is taken.

5. **Sacramental marriage not to be invalid in certain cases.**—Unless there was force or fraud, a sacramental marriage shall not, after it has been completed, be deemed to be invalid, or ever to have been invalid, merely on the ground that the consent of the bride's guardian in marriage was not or had not been obtained.

6. **Entering of particulars relating to sacramental marriage in a register.**—(1) For the purpose of facilitating the proof of sacramental marriages, rules may be prescribed for the entering of particulars relating to such marriages in such manner as may be prescribed in the Hindu Civil Marriage Certificate Book kept under section 17 of this Chapter.

(2) No such entry shall be made except with the consent in writing of both the parties to the marriage, provided that where the wife has not completed the age of sixteen years, the consent of her guardian instead of her consent shall be required.

(3) The making of such an entry shall not be compulsory in the case of a sacramental marriage and the validity of the marriage shall in no way be affected by the omission to make the entry.

CIVIL MARRIAGE

7 **Requisites of a civil marriage.**—A civil marriage may be contracted under this Chapter by any two Hindus, upon the following conditions, namely :—

(1) neither party must have a spouse living at the time of the marriage ;

(2) neither party must be an idiot or a lunatic at the time of the marriage ;

(3) the bridegroom must have completed the age of eighteen years and the bride the age of fourteen years ;

(4) the parties must not be within the degrees of prohibited relationship, and ;

(5) each party must, if he or she has not completed the age of twenty-one years, have obtained the consent of his or her guardian in marriage, provided that no such consent shall be required in the case of a widow.

8. **Marriage Registrars.**—(1) The Provincial Government may appoint one or more persons, being Hindus, to be Registrars under this Chapter for any portion of the Province.

(2) Any officer so appointed shall be called "Registrar of Hindu Civil Marriages" and is hereinafter referred to as "the Registrar".

(3) The portion of the Province for which any such officer is appointed is hereinafter referred to as his "district".

9. **Notice of marriage to Registrar.**—(1) When a civil marriage is intended to be contracted under this Chapter, both the parties must give notice in writing to the Registrar before whom it is to be contracted.

(2) The Registrar to whom such notice is given must be the Registrar of a district within which one at least of the parties to the marriage has resided for not less than thirty days before such notice is given.

(3) Such notice may be in the form specified in the Third Schedule.

10. **Marriage Notice Book and publication.**—(1) The Registrar shall file all notices given under section 9 and keep them with the records of his office, and shall also forthwith enter a true copy of every such notice in a book furnished to him for that purpose by the Provincial Government, to be called the "Hindu Civil Marriage Notice Book" and such book shall be open at all reasonable times, without fee, to every person desirous of inspecting the same.

(2) The Registrar shall also publish every such notice in such manner as he may consider suitable.

11. **Objection to marriage.**—(1) Thirty days after notice of an intended marriage has been given under section 9, the marriage may be contracted unless it has been objected to under sub-section (2).

(2) Any person may, before the expiration of thirty days from the giving of the notice of an intended marriage, object to the marriage on the ground that it would contravene one or more of the conditions prescribed in clauses (1), (2), (3), (4) and (5) of section 7.

5—1 Law

(3) The nature of the objection made shall be recorded in writing by the Registrar in the Hindu Civil Marriage Notice Book, and shall, if necessary, be read over and explained to the person making the objection, and shall be signed by him or on his behalf.

12. **Procedure of Registrar on receipt of objection.**—(1) If an objection is made under section 11 to an intended marriage, the Registrar shall not allow the marriage to be contracted until the lapse of thirty days from the receipt of such objection, if there is a Court of competent jurisdiction open at the time, or if no such Court is open at the time until the lapse of thirty days from the opening of such a Court.

(2) The person objecting to the intended marriage may file a suit in the District Court having local jurisdiction, or in any other Court empowered in this behalf by the Provincial Government and having such jurisdiction, for a decree declaring that such marriage would contravene one or more of the conditions prescribed in clauses (1), (2), (3), (4) and (5) of section 7, and the officer before whom such suit is filed shall thereupon give the person presenting it a certificate to the effect that such suit has been filed.

(3) If the certificate referred to in sub-section (2) is lodged with the Registrar within thirty days from the receipt by him of the objection, if there is a Court of competent jurisdiction open at the time or if no such Court is open at the time, within thirty days from the opening of such a Court, the marriage shall not be contracted until the decision of such Court has been given and the period allowed by law for appeal from such decision has elapsed, or, if there is an appeal from such decision, until the decision of the Appellate Court has been given.

(4) If such certificate is not lodged in the manner and within the period laid down in sub-section (3), or if the decision of the Court is that the marriage would not contravene any of the conditions prescribed in clauses (1), (2), (3), (4) and (5) of section 7 the marriage may be contracted.

(5) If the decision of the Court is that the marriage would contravene any of the conditions prescribed in clauses (1), (2), (3), (4) and (5) of section 7, the marriage shall not be contracted.

13. **Power of Court to fine when objection not reasonable.**—If it appears to the Court that the objection was not reasonable and *bona fide*, it may impose a fine not exceeding one thousand rupees on the person objecting, and award it or any part thereof to the parties to the intended marriage.

14. **Declaration by parties and witnesses.**—Before the marriage is contracted, the parties and three witnesses shall, in the presence of the Registrar, sign a declaration in the form specified in the Fourth Schedule. If either party has not completed the age of twenty-one years, the declaration shall also be signed by his or her guardian, except in the case of a widow ; and, in every case, it shall be countersigned by the Registrar.

15. **Marriage how to be contracted.**—The marriage shall be contracted in the presence of the Registrar and of the three witnesses who signed the declaration. The contracting may be done in any form, provided that each party says to the other, in the presence and hearing of the Registrar and witnesses, "I, (A), take thee, (B), to be my lawful wife (or husband)".

16. **Marriage where to be contracted.**—The marriage may be contracted—

(*a*) at the office of the Registrar, or

(b) at such other place within reasonable distance therefrom as the parties desire, upon such conditions and on the payment of such additional fee as may be prescribed.

17. **Certificate of Marriage.**—When the marriage has been contracted, the Registrar shall enter a certificate thereof, in the form specified in the Fifth Schedule, in a book to be kept by him for that purpose and to be called the "Hindu Civil Marriage Certificate Book", and such certificate shall be signed by the parties to the marriage and the three witnesses.

18. **Registration of sacramental marriage as civil marriage.**—(1) Any two persons between whom a ceremony of marriage in any Hindu form has been performed before or after the commencement of this Code, may at any time apply to the Registrar of the district where either of them has resided for not less than thirty days before the application, to have their marriage registered as a civil marriage contracted before the Registrar.

(2) If after giving public notice of the application and allowing a period of thirty days for objections and hearing any objections received within that period, the Registrar is satisfied—

(a) that the ceremony of marriage was performed on the date mentioned in the application and that the parties have been living together as husband and wife ever since ;

(b) that the conditions in clauses (1) to (4) of section 7 are satisfied as between the parties to the marriage on the date of the application ;

(c) where either party, not being a widow at the time of the marriage has not on the date of the application completed the age of twenty-one years, that the consent of his or her guardian in marriage has been obtained to the registration of the marriage as a civil marriage ;

he shall enter a certificate of the marriage in the Hindu Civil Marriage Certificate Book in the form specified in the Sixth Schedule, and such certificate shall be signed by the parties to the marriage as well as by three witnesses ; and thereupon the marriage shall be deemed to have been a civil marriage, valid for all purposes, as from the date of the application ; and all children born after the date of the ceremony aforesaid (whose names shall also be entered in the certificate and the Hindu Civil Marriage Certificate Book) shall in all respects, be deemed to be, and always to have been, the legitimate children of their parents.

Explanation.—The registration of a marriage as a civil marriage under this section shall not be refused on the ground that, at the time when the ceremony of marriage was performed neither party or only one of the parties was a Hindu.

19. **Marriage Certificate Book to be open to inspection, etc.**—The Hindu Civil Marriage Certificate Book shall, at all reasonable times, be open for inspection, and shall be admissible as evidence of the truth of the statements therein contained. Certified extracts therefrom shall, on application, be given by the Registrar on payment to him of the prescribed fee.

20. **Transmission of copies of entries in Marriage Certificate Book to the Registrar-General of Births, Deaths and Marriages.**—The Registrar shall send to the Registrar-General of Births, Deaths, and Marriages for the Province within which his district is situate, at such intervals as may be prescribed, a true copy, in the prescribed form and certified by him, of all entries made by him in the Hindu Civil Marriage Certificate Book since the last of such intervals.

21. **Fees.**—The fees to be paid to the Registrar for the duties to be discharged by him under this Chapter shall be such as may be prescribed.

22. **Penalty for signing false declaration or certificate.**—Every person making, signing or attesting any declaration or certificate required under this Chapter, containing a statement which is false and which he either knows or believes to be false or does not believe to be true, shall be deemed to be guilty of the offence described in section 199 of the Indian Penal Code (XLV of 1860).

GENERAL PROVISIONS

23 **Guardianship in marriage.**—(1) Subject to the provisions of Part V, the following persons, in the order given, are entitled to be guardians in marriage—

(a) of a Hindu girl who has not completed the age of sixteen years, for the purpose of her sacramental marriage,

(b) of a Hindu boy, or of a Hindu girl other than a widow, who has not completed the age of twenty-one years, for the purposes of his or her civil marriage, or of the registration of his or her marriage as a civil marriage under this Chapter—

(1) the father ;

(2) the mother ;

(3) the paternal grandfather ;

(4) the brother by full or half blood, a brother by full blood being preferred to one by half blood and as between brothers both by full or half blood, the elder being preferred ;

(5) the paternal uncle by full or half blood, subject to the like rules of preference as are set out in entry (4) above ;

(6) the maternal grandfather ;

(7) the maternal uncle, subject to the like rules of preference as are set out in entry (4) above ;

(8) any other relative, the nearer being preferred to the more remote and as between relatives related in the same way, subject to the like rules of preference as are set out in entry 4 above.

Explanation.—In determining which of two relatives is nearer for the purposes of entry (8) above, the test shall be, which of them is first entitled to inherit to the ward's heritable property according to the rules of intestate succession in Part II.

(2) The guardian of a boy or girl referred to in clause (b) of sub-section (1) shall be a person who has completed his or her twenty-first year.

(3) Where any person entitled to be the guardian in marriage under the foregoing provisions refuses, or is by reason of absence, disability or other cause, unable or unfit, to act as such, the person next in order shall be entitled to be the guardian.

(4) Nothing in this Chapter shall affect the jurisdiction of a Court to prohibit by injunction an intended marriage arranged by the guardian, if in the interests of the minor, the Court thinks it necessary to do so.

24. **Punishment of bigamy.**—Any marriage between two Hindus celebrated after the commencement of this Code is void, if at the date of such marriage, either party had a husband or wife living ; and the provisions of sections 494 and 495 of the Indian Penal Code (XLV of 1860) shall apply accordingly.

25. **Power to make Rules.**—The Provincial Government may, by notification in the Official Gazette, make rules to regulate any matter which is to be, or may be, prescribed under this Chapter.

CHAPTER II.—CONSEQUENCES OF MARRIAGE INCLUDING DUTIES OF HUSBAND AND WIFE

26. **Maintenance of wife.**—(1) Subject to the provisions of this section, a Hindu husband is bound to maintain his wife and after his death, his father shall be bound to maintain her if he has the means to do so whether out of joint or separate property.

(2) A Hindu wife may claim maintenance from her husband only if and while she lives with him :

Provided that she shall be entitled to live separately from him without forfeiting her claim to maintenance—

(*a*) if he is suffering from a loathsome disease ;

(*b*) if he keeps a concubine ;

(*c*) if he has been guilty of such cruelty as to render it unsafe or undesirable for her to live with him ;

(*d*) if he is guilty of desertion, that is to say, of abandoning her without just cause, and without her consent or against her wish, for a period of not less than two years ;

(*e*) if he has ceased to be a Hindu by conversion to another religion,

(*f*) if there is any other cause justifying her living separately.

(3) The obligation of a father-in-law to maintain his widowed daughter-in-law under sub-section (1) only extends in so far as she is unable to obtain maintenance from her husband's estate or from her son, if any, or his estate, and ceases on her re-marriage.

Explanation.—The provisions of this section shall also apply to marriages celebrated before the commencement of this Code.

27. **Succession to the property of parties to certain civil marriages and their issue.**—Notwithstanding anything contained in clause (iii) of section 1 of Part II or in any other enactment for the time being in force, succession to the heritable property of any Hindu governed by the *Maru-Makkattayam*, *Aliyasantana* or *Nambudri* law of inheritance who contracts or has contracted a civil marriage with any other Hindu under this Part or under the Special Marriage Act, 1872 (III of 1872), or whose marriage has been registered as a civil marriage under section 18 of this Part and to the heritable property of the issue of such marriage, shall, except as regards the property referred to in clauses (i) and (ii) of the said section 1, be regulated by the provisions of this Code.

28. **Consideration for consenting to marriage to be trust property.**—Whereas consideration for consenting to a marriage celebrated after the commencement of this Code, any property is transferred by, or on behalf of, either party to the marriage or any of his or her relatives, to any relative of the other party whether directly or indirectly, the transferee shall hold the property in trust for the benefit of the wife and transfer it to her upon her completing the age of eighteen years, or if she dies without completing that age, to her *stridhana* heirs as specified in section 14 of Part II.

(2) Where the wife has completed the age of eighteen years before the marriage, the property shall be transferred to her at any time when she requires the transferee to do so.

(3) If a marriage would not in fact have taken place but for the consent thereto accorded by a relative of either party to the marriage, such consent shall be deemed to be a consent within the meaning of this section, although it might not have been necessary in law for the celebration of a valid marriage.

CHAPTER III.—NULLITY, INVALIDATION AND DISSOLUTION OF MARRIAGES

29. **Decree of nullity or invalidity of marriage.**—(1) Either party to a marriage celebrated before or after the commencement of this Code may, at any time, present a petition to the District Court or to the High Court, praying that his or her marriage may be declared null and void on either of the following grounds, namely :—

(i) that a former husband of the female party, or (except in the case of a sacramental marriage celebrated before the commencement of this Code) a former wife of the male party, was living at the time of the marriage and the marriage with such former husband or wife was then in force ;

(ii) that (except in the case of a marriage celebrated before the commencement of this Code which was valid at the time of the celebration) the parties are within the degrees of prohibited relationship as defined in clause (b) of section 1.

(2) Either party to a marriage so celebrated may, at any time within three years after the celebration of the marriage, or in the case of a marriage celebrated before the commencement of this Code, within two years of such commencement, present a petition to the District Court or to the High Court, praying that his or her marriage may be declared invalid on any of the following grounds, namely :—

(i) that the respondent was impotent at the time of the marriage and continued to be so until the institution of the suit ;

(ii) that the parties having been married in the sacramental form, are *sapindas* of each other and no custom or usage permits of a sacramental marriage between them, provided that this clause shall not apply where the marriage is subsequently registered as a civil marriage under section 18 ;

(iii) that either party is an idiot or was a lunatic at the time of the marriage.

(3) Either party to a marriage so celebrated may also present a petition to the High Court praying that his or her marriage may be declared invalid on the ground that the consent of such party, or where the consent of his or her guardian, is requisite under the provisions of Chapter I, the consent of such guardian, was obtained by force or fraud :

Provided that the Court shall dismiss such petition—

(a) if it is presented more than a year after the force had ceased or the fraud had been discovered or more than a year after the commencement of this Code, as the case may be, or

(b) if the petitioner has, with his or her free consent, lived with the other party to the marriage as husband and wife after the force had ceased or the fraud had been discovered, as the case may be.

(4) Even decree of nullity or invalidity of a marriage made by a District Court shall be subject to confirmation by the High Court.

(5) Where a marriage is declared null and void on the ground that a former husband or wife was living and it is adjudged that the subsequent marriage was contracted in good faith and that one or both of the parties fully believed that the former husband or wife was dead, or where a

marriage is declared invalid on the ground specified in clause (ii) or (iii) of sub-section (2), or in sub-section (3) children begotten before the decree is made shall be specified therein and shall in all respects be deemed to be, and always to have been, the legitimate children of their parents.

30. **Decree for dissolution of marriage.**—Either party to a marriage celebrated before or after the commencement of this Code may present a petition to the District Court or to the High Court, praying that his or her marriage may be dissolved on the ground that the other party—

(a) has, without just cause, deserted the petitioner for a period of not less than five years immediately preceding the presentation of the petition, or

(b) has ceased to be a Hindu by conversion to another religion, or

(c) if a husband, has any other woman as a concubine, and if a wife, is a concubine of any other man or leads the life of a prostitute ; or

(d) is incurably of unsound mind and has been continuously under care and treatment for a period of not less than five years immediately preceding the presentation of the petition ; or

(e) is suffering from a virulent and incurable form of leprosy ; or

(f) has been suffering from venereal disease in a communicable form for a period of not less than five years immediately preceding the presentation of the petition ; or

(g) has been guilty of such cruelty as to render it unsafe for the petitioner to live with the other party.

31. **Decree for dissolution to be confirmed by High Court.**—Every decree for the dissolution of a marriage made by a District Court shall be subject to confirmation by the High Court.

32. **Power to make rules for associating assessors with Court.**—(1) The Provincial Government may, by notification in the Official Gazette, make rules for associating assessors with the District Court or the High Court, as the case may be, in the trial of all or any petitions presented under this Chapter.

(2) Every assessor shall be a Hindu.

(3) Rules made under this section shall specify—

(i) the number of the assessors to be so associated ;

(ii) their functions, and in particular, whether their decision or that of a majority among them shall be binding on the Court in any, and, if so, in what matters ; and

(iii) the procedure of the Court generally.

33. **Application of Indian Divorce Act (IV of 1869).**—In this Chapter, the expressions "District Court", and "High Court" shall have the same meaning as in the Indian Divorce Act (IV of 1869) ; and the provisions of that Act shall apply, so far as may be, in respect of the petitions presented under this Chapter as if they were petitions presented under that Act.

34. **Customary or statutory rights of divorce not affected.**—Nothing contained in this Chapter shall be deemed to affect any right recognized by custom or conferred by any special enactment, to obtain the dissolution of a sacramental marriage, whether solemnized before or after the commencement of this Code.

Illustrations

(i) Among certain Hindu communities divorce is now allowed by custom in certain circumstances not covered by section 30. Sacramental marriages in those communities may be dissolved in accordance with such custom. They may also be dissolved under section 30.

(ii) Where a Hindu woman governed by the *Marumakkattayam* law marries another Hindu according to the customary ceremonies, the marriage would be a sacramental marriage recognized as such by this Code. But such a marriage may be dissolved under section 6 of the Madras Marumakkattayam Act, 1932 (Madras Act XXII of 1933).

PART V—MINORITY AND GUARDIANSHIP

1. **Definitions.**—In this Part—

(a) "minor" means a person who has not completed the age of eighteen years;

(b) "natural guardian" means any of the guardians referred to in section 4 of this Part, but does not include a guardian (i) appointed by the will of the minor's father, or (ii) appointed or declared by a Court of Law, or (iii) empowered to act as such by or under any enactment relating to any Court of Wards.

2. **Welfare of minor to be paramount consideration.**—In the appointment or declaration of any person as guardian of a Hindu minor by a Court of Law, the welfare of the minor shall be the paramount consideration and no person shall be entitled to the guardianship by virtue of the provisions of this Part, or of section 23 of Part IV if the Court is of opinion that his or her guardianship will not be for the welfare of the minor.

3. **Guardian not to be appointed for minor's undivided interest in joint family property.**—Where a minor has an undivided interest in joint family property and the property is under the management of an adult member of the family no guardian shall be appointed for the minor in respect of such undivided interest.

Provided that nothing in this section shall be deemed to affect the jurisdiction of a High Court to appoint a guardian in respect of such interest.

4. **Natural guardians of a Hindu Minor.**—The natural guardians of a Hindu minor, in respect of the minor's person as well as in respect of the minor's property, excluding his or her undivided interest in joint family property, are :—

(a) in the case of a boy or unmarried girl—the father, and after him, the mother, provided that the custody of a minor who has not completed the age of three years shall ordinarily be with the mother;

(b) in the case of an illegitimate boy or unmarried girl—the mother and after her, the father;

(c) in the case of a married girl—the husband.

5. **Natural guardianship of adopted son.**—The natural guardianship of an adopted son who is a minor passes, on adoption, from the family of his birth to the family of his adoption.

6. **Powers of natural guardian.**—(1) The natural guardian of a Hindu minor has power, subject to the provisions of this section, to do all acts which are necessary or reasonable and proper for the benefit of the minor or for the realization, protection or benefit of the minor's estate; but the guardian can in no case bind the minor by a personal covenant.

(2) The natural guardian shall not, without the previous permission of the Court—

(a) mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immovable property of the minor; or

(b) lease any part of such property for a term exceeding five years or for a term extending more than one year beyond the date on which the minor will attain majority.

(3) Any disposal of immovable property by a natural guardian, in contravention of sub-section (1) or sub-section (2), is voidable at the instance of any other person affected thereby.

(4) Permission to the natural guardian to do any of the acts mentioned in sub-section (2) shall not be granted by the Court except in case of necessity or for an evident advantage to the minor.

(5) The Guardians and Wards Act, 1890 (VII of 1890), shall apply to and in respect of an application for obtaining the permission of the Court under sub-section (2) in all respects as if it were an application for obtaining the permission of the Court under section 29 of that Act, and in particular—

(a) proceedings in connexion with the application shall be deemed to be proceedings under that Act within the meaning of section 4-A thereof ;

(b) the Court shall observe the procedure and have the powers specified in sub-sections (2), (3) and (4) of section 31 of that Act ; and

(c) an appeal shall lie to the High Court from an order of the Court refusing permission to the natural guardian to do any of the acts mentioned in sub-section (2) of this section.

(6) In this section, " Court " means the District Court within the local limits of which the immovable property in respect of which the application is made, or any part thereof, is situated.

7. **Revocation of authority by natural guardian.**—Where the natural guardian of a Hindu minor authorises another person to take charge of the minor, the authority is revocable unless, it is undesirable in the interests of the minor to permit revocation owing to the way in which the authority has been acted upon, or owing to the natural guardian having ceased to be a Hindu, or owing to any other reason.

8. **Testamentary guardian and his powers.**—(1) A Hindu father may, by will, appoint a guardian for any of his minor legitimate children in respect of the minor's person, or in respect of the minor's property (other than the undivided interest referred to in section 3), or in respect of both.

(2) The guardian so appointed has, after the death of the father, the right to act as the minor's guardian in preference even to the mother, and to exercise all the rights of a natural guardian under this Part to such extent and subject to such restrictions, if any, as may be specified in the will, without prejudice however to the right conferred on the mother by the proviso to clause (a) of section 4.

(3) The right of the guardian so appointed shall, where the minor is a girl, cease on her marriage.

9. **Duty of guardian to bring up minor as a Hindu.**—It shall be the duty of the guardian of a Hindu minor to bring up the minor as a Hindu.

10. ***De facto* guardian not to deal with minor's property.**—After this Code comes into force, no person shall be entitled to dispose of, or deal with, the property of a Hindu minor merely on the ground of his or her being the *de facto* guardian of the minor.

PART VI.—ADOPTION

CHAPTER I.—FORMS, CONDITIONS AND LEGAL CONSEQUENCES OF ADOPTION

DIVISION I.—ADOPTION IN DATTAKA FORM

1. **Dattaka adoptions to be regulated by Section I.**—A son may be adopted in the dattaka form by or to any male Hindu in accordance with and subject to the provisions hereinafter contained in this Division; and all references therein to adoption or to a son taken or to be taken in adoption shall be construed, unless there is something repugnant in the subject or context, as references to adoption in the dattaka form or to a son taken or to be taken in adoption in such form, as the case may be.

2. **Adoption by widow to be to husband.**—A Hindu widow may adopt a son to her husband in accordance with and subject to the provisions hereinafter contained in this Division.

3. **Daughters not to be adopted.**—No daughter shall be adopted by or to any male or female Hindu.

4. **Conditions of valid adoption.**—No adoption is valid unless—

(i) the person adopting has the capacity, and also the right to take in adoption;

(ii) the person giving in adoption has the capacity to do so;

(iii) the person adopted is capable of being taken in adoption;

(iv) the adoption is completed by an actual giving and taking; and

(v) the adoption complies with the other conditions mentioned in this Division.

5. **Capacity to take in adoption.**—(1) Any male Hindu who is of sound mind and has completed the age of eighteen years has the capacity to take a son in adoption:

Provided that a Hindu who has one or more wives living shall not adopt except with the consent of his wife or of one of his wives, unless the wife or all the wives, as the case may be, are incapable of consent.

(2) Any Hindu widow who is of sound mind and has completed the age of eighteen years has the capacity to take a son in adoption to her husband, provided—

(a) he has not expressly or impliedly prohibited her from adopting, and

(b) her power to adopt has not terminated.

Explanation.—Nothing in this sub-section shall be deemed to prevent a Hindu widow who has not completed the age of eighteen years from adopting to her husband a boy named by him in an authority conferred on her in the manner hereinafter provided.

(3) Save as provided in sub-sections (1) and (2) no male or female Hindu has the capacity to take a son in adoption,

6. **Authority or prohibition in regard to adoptions.**—(1) Any male Hindu who has the capacity to take a son in adoption as aforesaid may authorise his wife to adopt a son to him after his death or prohibit her from doing so.

(2) Where there are more wives than one, the authority may be given to, or the prohibition imposed on, any or all of them.

(3) Where a Hindu who has left two or more widows, has expressly authorised any of them to adopt a son, he shall be deemed, by implicaion, to have prohibited the others from adopting.

7. **Manner of giving authority or imposing prohibition or revoking the same.**—(1) No authority to adopt, and no prohibition of adoption, shall be valid, unless given or imposed by an instrument registered under the Indian Registration Act, 1908 (XVI of 1908), or by a will executed in accordance with the provisions of section 63 of the Indian Succession Act, 1925 (XXXIX of 1925).

(2) Any authority or prohibition so given or imposed may be revoked either by an instrument registered, or a will executed, as aforesaid.

(3) If the authority or prohibition is given or imposed by a will, it may also be revoked in any of the other modes provided in section 70 of the Indian Succession Act, 1925 (XXXIX of 1925), as modified by Schedule III to that Act.

8. **Right to adopt as between two or more widows.**—Where a Hindu has left two or more widows with capacity to take a son in adoption to him, the right to adopt is determined as between them in accordance with the following provisions :—

(a) If he has granted to all or any of them authority to adopt, indicating the order of preference in that behalf, the right to adopt shall follow that order.

(b) If he has given no such indication, the right to adopt shall follow the order of the seniority of the widows to whom authority has been granted, as determined by section 9.

(c) If he has neither authorised nor prohibited an adoption, the right to adopt shall follow the order of the seniority of the widows as determined by section 9.

(d) A widow having the right to adopt under clause (b) or clause (c) may renounce it in favour of the next senior widow by a registered instrument ; if she does not so renounce it and if, without just cause, she either refuses, or fails within a reasonable time to exercise her right when called upon to do so by the next senior or any other widow, the right shall pass to the next senior widow, and so on down to the last widow in the order of seniority.

9. **Seniority among wives and widows.**—For the purposes of this Division, seniority among the wives or widows of a person is determined by the order in which they were married to him, the woman who was married earlier being reckoned senior to the woman who was married later.

10. **Widow's right to adopt not exhausted by previous exercise.**—A widow may, subject to the provisions of this Division, adopt several sons in succession, one after the death of another, unless the authority, if any, conferred upon her by her husband otherwise provides.

11. **Termination of widow's right.**—(1) A widow's right to adopt terminates—

(a) when she remarries, or

(b) when any Hindu son of her husband dies, leaving him surviving a Hindu son widow or son's widow.

Explanation.—In this sub-section, son means a son, son's son, or son's son's son, whether by legitimate blood relationship or by adoption.

(2) Once terminated, the widow's right to adopt can never revive,

12. **Capacity to give in adoption.**—(1) The only persons having the capacity to give a boy in adoption are his father and his mother.

(2) The primary right is that of the father, but he shall not exercise it without the consent of the mother where she is capable of consent.

(3) The mother may give the boy in adoption—

(a) if the father is dead,

(b) if he has completely and finally renounced the world in any of the modes set forth in sub-section (1) of section 11 of Part II, or

(c) if he is incapable of consent;

Provided that the father has not prohibited her from doing so by an instrument registered under the Indian Registration Act, 1908 (XVI of 1908), or by a will executed in accordance with the provisions of section 63 of the Indian Succession Act, 1925 (XXXIX of 1925).

(4) The father or mother giving a boy in adoption must be of sound mind and must have completed the age of eighteen years.

13. **Capacity to be taken in adoption.**—For a boy to be capable of being taken in adoption, he must satisfy the following conditions.

(i) He must be a Hindu.

(ii) He must never have been married.

(iii) Unless he belongs to the same *gotra* as the adoptive father, his *upanayana ceremony* must not have been performed.

(iv) He must not have completed the age of fifteen years.

(v) He must not have been already adopted.

14. **Certain persons declared capable of being adopted.**—For the avoidance of doubt, it is hereby declared that the adoption of the following persons is permissible:—

(i) The eldest or the only son of his father;

(ii) The son of a woman whom the adoptive father could not have legally married, and in particular, his daughter's son, sister's son, or mother's sister's son;

(iii) A stranger, although near relatives of the adoptive father exist.

15. **Actual giving and taking essential but not datta homam.**—(1) It is essential to a valid adoption that the boy to be adopted is actually given and taken in adoption by the parents concerned or under their authority, with intent to transfer him from the family of his birth to the family of his adoption.

(2) The performance of the *datta hamam* is not essential to the validity of an adoption.

16. **Conditions compiled with.**—In every adoption, the following conditions must be complied with:—

(i) The adoptive father by or to whom the adoption is made must have no Hindu son, son's son, or son's son's son (whether by legitimate blood relationship or by adoption) living at the time of adoption.

Explanation.—A person not actually born at the time of adoption, although he may then be in the womb and is subsequently born alive, is not said to be living at the time of adoption for the purposes of this clause.

(ii) Where a person has directed that his widow shall adopt only with the consent of a specified person, or within a specified period, or upon some other specified condition, and not otherwise the adoption must be made by her strictly in accordance with such direction.

Explanation.—In each case, it is for the Court to determine whether the husband intended to authorise the adoption only in accordance with the direction given by him or not.

(iii) The same boy may not be adopted simultaneously by or to two or more fathers nor may two or more boys be simultaneously adopted by or to the same father.

(iv) (*a*) Every adoption must be made with the free consent of the person giving and of the person taking in adoption.

(*b*) Where the consent of either is obtained by coercion, undue influence, fraud, misrepresentation or mistake, the consent is not free within the meaning of sub-clause (a), but the person whose consent is so obtained may confirm the adoption after the coercion or undue influence has ceased, or after discovering the fraud, misrepresentation or mistake, as the case may be, provided that the confirmation does not prejudice the rights of other persons.

17. **Adoption in contravention of Division to be void.**—Except in the case referred to in section 16(iv) (b), an adoption made in contravention of the provision of this Division shall be void ; it creates no rights in the adoptive family, and destroys none in the family of birth.

18. **Effects of adoption.**—An adopted son is deemed to be a son in his adoptive father's family with effect from the date of the adoption, all his ties in the family of his birth being severed and replaced by those created by the adoption ;

Provided that—

(a) any property which vested in him before the adoption shall continue to vest in him subject to the obligations, if any, attaching to the ownership of such property, including the obligations to maintain relatives in the family of his birth ;

(b) he cannot marry any person whom he could not have married if he had continued in the family of his birth.

10. **Divesting of estates by adoption.**—(1) If an adoption is made within three years of the death of the adoptive father, the adopted son shall be entitled to all the rights to which a son born of the adoptive father would have been entitled in such father's estate as it stood at the time of his death, except that the adopted son shall not be entitled to any mesne profits in respect of the period before the adoption.

(2) If an adoption is made to any person within three years of the death of his son, son's son, or son's son's son, as the case may be, the adopted son shall be entitled to all the rights to which a son born of the adoptive father and in existence on the date of such death, would have been entitled in the estate of such son, son's son, or son's son's son as it stood on that date, except that the adopted son shall not be entitled to any mesne profits in respect of the period before the adoption.

(3) In cases other than those referred to in sub-section (1), the adopted son takes, irrespective of the time of his adoption—

(a) one-half of whatever estate or estates his adoptive mother inherited from her husband or from her son, son's son, or son's son's son, as the estate or estates stood immediately before the adoption ; and

(b) if the estate or any of the estates so inherited by her is impartible, the whole of such estate as it stood immediately before the adoption.

(4) The provisions of sub-sections (1) to (3) shall also apply in respect of agricultural land, wherever situate in British India.

(5) Save as provided in this section, an adoption does not divest any person of any estate which vested in him or her before the adoption.

20. **Certain agreements to be void.**—An agreement not to adopt, or curtailing the rights of an adopted son, is void.

21. **Right of adoptive parents to dispose of their properties.**—(1) Where a boy is given in adoption under an express agreement which has been registered under the Indian Registration Act, 1908 (XVI of 1908), that the adoptive father or mother or both shall not dispose of his or her or their properties, or any specified portion thereof, to the prejudice of the adopted son, any such disposal shall be void.

(2) Save as provided in sub-section (1), an adoption does not deprive the adoptive father or mother of the power to dispose of his or her property by transfer *inter vivos* or by will.

22. **The adoptive mother, if any, in case of adoption by a male.**—(1) Where a Hindu who has a wife living adopts a son, she shall be deemed to be the adoptive mother.

(2) Where a Hindu has more than one wife living, that wife in association with whom or with whose consent he makes the adoption, or if more than one wife has been so associated or has so consented, the senior-most among the wives so associated or consenting, as the case may be, shall be deemed to be the adoptive mother, and the other wives the step-mothers, of the adoptee.

(3) Where a widower adopts, within one year of his wife's death, she shall be deemed to be the adoptive mother, and any other pre-deceased wife or any wife subsequently married by him shall be deemed to be the step-mother, of the adoptee.

Where more than one wife has died within a period of one year preceding the adoption, that one of such wives who died last, shall be deemed to be the adoptive mother, unless the adopter has directed or given a clear indication that some other of such wives shall be deemed to be the adoptive mother ; in either case, any predeceased wife who is not the adoptive mother and any wife subsequently married by the adopter shall be deemed to be the step-mothers of the adoptee.

(4) Where a bachelor adopts, any wife subsequently married by him shall be deemed to be the adoptive mother, and the other widows the step-mothers, of the adoptee.

23. **The adoptive mother in case of adoption by widow.**—(1) Where one of several widows of a deceased Hindu makes an adoption, she shall be deemed to be the adoptive mother, and the other widows the step-mother, of the adoptee.

(2) Where two or more widows jointly make an adoption, the senior-most among the widows shall be deemed to be the adoptive mother, and the other widow or widows the step-mother or step-mothers, of the adoptee.

24. **Valid adoption not to be cancelled.**—An adoption once it has been validly made cannot be cancelled by the adoptive father or mother or any other person nor can the adopted son renounce his status as such and return to the family of his birth.

25. **Applicability of provisions in this Division to certain cases.**—(1) Nothing in this Division shall affect any adoption made before the commencement of this Code; and the validity and effect of any such adoption shall be determined as if this Code were not in force.

(2) This Division shall however apply to any adoption made after the commencement of this Code to a male Hindu who died before such commencement, subject to the following modifications:—

(a) If the adoption fulfils the requirements of a valid adoption under the law applicable to the case before the commencement of this Code, and the adopted son would, under that law, divest the estate of any person other than the adopting widow or acquire any interest in any property, he shall, with effect from the date of the adoption, divest such person of such estate or acquire an interest in such property, as the case may be, and sub-sections (1) and (2) of section 19 shall apply accordingly.

(b) The adopted son shall also have the right to impeach any transfer of property comprised in any estate inherited by his adoptive mother or any of her co-widows from his adoptive father or from his son son's son or son's son's son, so far as such transfer was not valid.

DIVISION II.—ADOPTION IN KRITRIMA OR GODHA FORM

26. **Kritrima and Godha adoptions.**—(1) A person may be adopted in the *kritrima* or *godha* form by any male or female Hindu who has attained the age of eighteen years, if the custom by which the parties would have been governed if this Code had not come into force, permits of an adoption in such form.

(2) The adoption shall be made in accordance with the custom, and its incidents shall also be regulated thereby.

DIVISION III.—PROHIBITION OF OTHER FORMS OF ADOPTION

27. **Prohibition of adoption in other forms.**—No one shall be adopted by or to any Hindu in any form other than the *dattaka,* the *kritrima* or the *godha* or otherwise than in accordance with the provisions of Division I or Division II, as the case may be.

DIVISION IV.—SAVING

28. **Saving.**—Nothing in this Chapter applies to a Hindu governed by the Marumakkattayam or Aliyasantana Law of Inheritance.

CHAPTER II.—REGISTRATION OF ADOPTIONS

29. **Definition of "prescribed".**—In this Chapter, "prescribed" means prescribed by rules made under section 35.

30. **Application for registration of adoption.**—Any person who has made an adoption in the *dattaka,* the *kritrima* or the *godha* form may, if he or she so desires, apply for an order directing the registration of the

adoption under this Chapter to the District Court having jurisdiction in the place where the adoption was made.

31. **Application when to be made and particulars to be contained in it.**—The application shall be made within ninety days of the adoption, and shall state the following particulars and such others as may be prescribed :—

(i) The date of the adoption.

(ii) The form of the adoption, that is, whether it was in the *dattaka*, *kritrima* or the *godha* form.

(iii) The name or names, and the age or ages, of the person or persons taking in adoption.

(iv) If the adopter is a married man, the name of his wife ; and if he is a widower, the name of his pre-deceased wife.

If there are two or more wives or pre-deceased wives, their names, the order in which, and the dates on which, they were married to him, and the name of the wife or pre-deceased wife who is the adoptive mother, if any.

(v) If the adopter is a woman, the name of her husband and the names of her co-wives or co-widows, if any.

(vi) The name and age of the person, if any, giving in adoption.

(vii) The name of the adopted boy in the family of his birth.

(viii) The age of the adopted boy.

(ix) The name of the adopted boy in the family of his adoption.

32. **Notice of application to be published.**—(1) The Court shall publish a general notice of the application, and also serve a special notice thereof on the person, if any, who is alleged to have given the boy in adoption as well as on the person or persons who, if the adoption had not taken place, would be entitled, under the provisions of Part II, to inherit the estate of the adoptive father, if he or his widow, as the case may be, were dead.

(2) In the notices aforesaid, a period of not less than thirty days from the date of the publication or service thereof shall be allowed for objections.

33. **Registration of adoption.**—After hearing the objections, if any, received within the period so allowed, the Court, upon being satisfied of the fact of the adoption, shall direct the Registrar of Births and Deaths for the local area where the adoption took place, to cause an entry of the adoption to be made in a prescribed register, to be called the Register of Adopted Children.

34. **Certified copy of entry in Register to be evidence of adoption.**—A copy of any entry in the Register of Adopted Children, certified in the prescribed manner, shall, without further proof, be received as evidence of the fact of adoption in any Court of Law.

35. **Rules.**—The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Chapter ; and in particular, such rules may provide for the levy of any fees in connection therewith.

FIRST SCHEDULE

(*See* section 6 of Part I)

Year 1	No. 2	Short title 3	Amendment 4
1872	III	The Special Marriage Act, 1872.	1. In the preamble, the words "and for persons who profess the Hindu, Buddhist, Sikh or Jaina religion" shall be omitted. 2. In section 2, the words "or between persons each of whom professes one or other of the following religions, that is to say, the Hindu, Buddhist, Sikh or Jaina religion" shall be omitted. 3. Sections 23 and 24, except in so far as they affect succession to agricultural land in Governors' Provinces, and the whole of sections 25 and 26, shall stand repealed.

SECOND SCHEDULE

(*See* section 7 of Part I)

Year 1	No. 2	Short title 3	Extent of repeal 4
1928	XII	The Hindu Inheritance (Removal of Disabilities) Act, 1928.	The whole, except in so far as it affects succession to agricultural land in Governors' Provinces.
1929	II	The Hindu Law of Inheritance (Amendment) Act, 1929.	The whole, except in so far as it affects succession to agricultural land, in Governors' Provinces.
1937	XVIII	The Hindu Women's Rights to Property Act, 1937.	The whole.
1946	XIX	The Hindu Married Women's Right to separate Residence and Maintenance Act, 1946.	The whole.
1946	XXVIII	The Hindu Marriage Disabilities Removal Act, 1946.	The whole.

THIRD SCHEDULE

(*See* section 9 of Part IV)

NOTICE OF MARRIAGE

To

a Registrar of Hindu Civil Marriages under Part IV of the Hindu Code for the District.

We hereby give you notice that a civil marriage under Part IV of the Hindu Code intended to be contracted between us within three calendar months from the date hereof.

Names	Condition	Rank or Profession	Age	Dwelling place	Length of residence
AB	Unmarried Widower	Landowner	..	..	..
CD	Spinster Widow	..	..	..	..

Witness our hands, this day of , 19 .

(Signed) AB
CD

FOURTH SCHEDULE

(*See* section 14 of Part IV)

DECLARATION TO BE MADE BY THE BRIDEGROOM

I, AB, hereby declare as follows :—

1. I am at the present time unmarried (or a widower, as the case may be).

2. I profess the Hindu religion (or the Buddhist, the Sikh or the Jaina religion, as the case may be).

3. I have completed..................years of age.

4. I am not related to CD (the bride) within the degrees of relationship prohibited by Part IV of the Hindu Code.

[*And when the bridegroom has not completed the age of twenty-one years*:

5. The consent of MN, my father (or guardian, as the case may be), has been given to a marriage between myself and CD, and has not been revoked.]

6. I am aware that, if any statement in this declaration is false, and if in making such statement, either know or believe it to be false or do not believe it to be true, I am liable to imprisonment and also to fine.

(Signed) AB (the bridegroom).

DECLARATION TO BE MADE BY THE BRIDE

I, CD, hereby declare as follows :—

1. I am at the present time unmarried (or a widow, as the case may be).

2. I profess the Hindu religion (or the Buddhist, the Sikh or the Jaina religion, as the case may be)

3. I have completed...........years of age.

4. I am not related to AB (the bridegroom) within the degrees of relationship prohibited by Part IV of the Hindu Code.

[*And when the bride has not completed the age of twenty-one years unless she is a widow*:

5. The consent of OP, my father (or guardian, as the case may be) has been given to a marriage between myself and AB, and has not been revoked.]

6. I am aware that, if any statement in this declaration is false, and if in making such statement, I either know or believe it to be false or do not believe it to be true, I am liable to imprisonment and also to fine.

(Signed) CD (the bride).

Signed in our presence by the above-named A B and C D :

GH
IJ } (three witnesses).
KL

[*And when the bridegroom or bride has not completed the age of twenty-one years, except in the case of a widow*:

Signed in my presence and with my consent by the above-named AB and CD :

MN (OP) the father (or guardian) of the above-named AB (or CD), as the case may be.]

(Countersigned) EF,

Registrar of Hindu Civil Marriages under Part IV of the Hindu Code for the District of

Dated this day of ,19 .

FIFTH SCHEDULE

(*See* section 17 of Part IV)

REGISTRAR'S CERTIFICATE

I, EF, certify that, on the of 19 , AB and CD appeared before me and that each of them, in my presence and in the presence of three credible witnesses who have signed hereunder, made the declarations required by Par IV of the Hindu Code and that a marriage under the said Part was contracted between them in my presence.

(Signed) EF,

Registrar of Hindu Civil Marriages under Part IV of the Hindu Code for the Distric of

(Signed) A B

CD
GH
IJ (three witnesses).
KL

Dated this day of , 19 .

SIXTH SCHEDULE

(*See* section 18 of Part IV)

REGISTRAR'S CERTIFICATE

I, EF, certify that AB and CD appeared before me this day and that each of them, in my presence and in the presence of three credible witnesses who have signed hereunder, declared that a sacramental marriage was solemnized between them in a Hindu form on the ....day of ....19 , and expressed their desire to have such marriage registered as a civil marriage, and that in accordance with their desire the said marriage has this day been registered under section 18 of Part IV of the Hindu Code as a civil marriage, having effect as such from the. . ...day of ....19 , the date on which an application was made for the registration of their marriage as a civil marriage under section 18 aforesaid.

The following children born to them after the solemnization of their marriage in the Hindu form as aforesaid shall be deemed to be, and always to have been, legitimate.

Here enter the names of the children, in the order of their dates of birth, specifying against each child the date of his or her birth.

(Signed) EF,

Registrar of Hindu Civil Marriages under Part IV of the Hindu Code of the District of

(Signed) AB

CD
GH
IJ (three witnesses)
KL

REPORT OF DR. DWARKANATH MITTER, M.A., D.L., FORMERLY JUDGE, CALCUTTA HIGH COURT, ON THE EVIDENCE COLLECTED IN THE TOUR THROUGHOUT INDIA OF WITNESSES REGARDING *THE HINDU CODE.*

In February 1945 the Government of India appointed me and the Hon'ble Sir B. N. Rau, formerly Judge, Calcutta High Court (Chairman), Principal J. R. Gharpure of Law College, Poona, and Mr. Venkata Rama Shastri, C.I.E., Advocate, Madras High Court, for the purpose of formulating a code of Hindu Law, which should be as complete as possible. The Committee accordingly prepared a draft code on those topics of Hindu Law on which alone the Centre can legislate under the existing Constitution and had it circulated to the leading Lawyers in India. This draft was largely revised in the light of criticisms received and was published for general information. The Committee invited the views of representative persons who are interested in the subject and expressed their desire to proceed to important cities in India to hear such views. The Committee made it clear that the draft published for general information was only a tentative one and was intended to focus the attention of public on the main issues which arise and the Committee should not be regarded as wedded to any of its provisions. They give the assurance that they intend to revise the draft in the light of the public opinion as elicited by them in writing and orally. One of the objects of the Committee is to evolve a uniform code of Hindu Law which will apply to all Hindus by blending the most progressive elements in the various schools of law which prevail in the different parts of the country.

The draft code deals with the following subjects : Intestate and Testamentary Succession, and matters arising therefrom, including Maintenance, Marriage and Divorce; Minority and Guardianship; and Adoption. These are all the topics on which the Centre can legislate at present ; a Hindu Code enactable by the Centre has necessarily to confine itself to them.

The Committee has accordingly toured through the various Provinces of India, *viz.*, Bombay, Poona, Delhi, Allahabad, Patna, Calcutta, Madras, Nagpur, and Lahore in the order stated.

I will now formulate the objections to the revised Code under different heads showing under each head the names of persons or associations who have raised the objections in each Province giving side by side names of those also consider the objections unsubstantial.

BOMBAY

1. That a uniform Code of Hindu Law is neither possible nor desirable.

Against codification	For codification
(1) Witness 2.—Ramji Sushu Panday of Bombay Sanskrit Chatra Sangha who said that the Legislature should not interfere with their religion which came from Vedas and Smritis.	(1) Witness No. 1.—Sarojini Mehta of Bhagni Samaj consisting of 1,200 members.
(2) Witness No. 3.—Mr. S. Y. Abhyankar, Advocate, High Court, Bombay (see paragraphs 16, 27, 28, 29, 30 of his written memorandum, pp. 71-86).	(2) Witness No. 4.—Mr. Tannubhai Desai, Solicitor, Bombay High Court.
(3) Mr. Panday, representing the Barnashram Swarajya Sangha, Bombay, whose members consist of one lakh persons in 250 branches.	(3) Witness No. 5.—The Hon'ble Mr. Justice Divatia of Bombay appearing on behalf of the Hindu Law Reform and Research Association.

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

(4)

Mr. Munshi, Advocate, Bombay High Court, said: "With regard to the possibility of codification, I have my doubts. The comprehensive legislation you introduce in violation of Smriti Law instead of consolidating will disintegrate Hindu community."

(5)

Written opinion of Sukla Yajurvedi Madhyandin Maharashtriya Brahmin Sangh, Sholapur (see page 108 of the opinions from Bombay).

(6)

Written opinion of Mrs. Jankibai Joshi, President, All India Hindu Women's Conference, who says that there should be no change of the personal law of the Hindus to a territorial law but it should be kept as personal as it is and codification only as opposed to codification and amendment should be had on the basis of different schools. (Page 43.)

(7)

Maharastra Brahman Sabha, Poona, page 103, para 1, which says that consideration of the Hindu Code should be postponed till after the cessation of war and should be taken into consideration in the Legislature after fresh elections are held. It also states that uniformity is not desirable.

(8)

Secretary, Sree Sankar Math, Matunga, Bombay, which represents the orthodox section of Hindu population (page 99—typed report).

(9)

Note by Mr. Kushalkar, Pleader, Kolhapur (page 14—typed).

(10)

Opinion of the Sanatan Vedic Dharma Sabha, Ahmedabad (page 29—typed) which consider that the draft Hindu Code is so revolutionary and ruinous that it has created all over India storms of protest, resentment and feeling of rank injustice.

(11)

Opinion of the President, The Lingayat Virashaiva Samaj Sudharana Sangha, Hubli (page 36), which says that the Code is objectionable both from the religious and economic points of view.

(12)

Opinion of Y. C. Gune, President, The Brahman Sabha, Karweer (page 53—typed).

(13)

Resolution of All-India Audichya Brahma Samaj (page 54—typed).

(14)

The Secretary, Bar Association, Belgaum (page 70—typed) against codification till the end of war and also because some changes are not acceptable to public opinion.

(15)

Mr. N. V. Vondey, B.A., LL.B., Poona (page 100—typed), against one uniform code; suggests there should be two systems—Mitakshara and Daya Bhag.

For codification

(4)

Bhatia Strimandal, represented by Mrs. Dharamsey Thakur, consisting of 500 members.

(5)

Mr. Dewanji, Retired District Judge.

(6)

Miss Engineer, Secretary, Seva Sadan Society.

(7)

Mrs. Lilabati Phadke of Arya Mahila Samaj.

(8)

Sir Chimanlal Sitalvad.

(9)

Mr. M. L. Sitalvad, Bar-at-Law.

(10)

Lady Ramanbai, President, Gujrati Reforms Association and ex-President, All India Women's Conference.

(11)

Mr. P. D. Patwari, Advocate, Khadia.

(12)

Lady Tarabon, President of thet Representative Committee of Hindu Ladies, Malabar Hill.

(13)

Lady Chunilal Mehta.

(14)

Mr. Bhandarker.

(15)

Mr. Gajendra Gadkar, Pleader, Satara City (page 21—typed).

(16)

Mr. L. V. Deshpande, Pleader, 10, Mahatma Gandhi Road, Vile-Parle (page 39—typed).

(17)

Recommendations of the Sholapur Bar Association (page 60) by a narrow majority, the influential minority being of opinion that the codification is unnecessary and undesirable at the present stage as (*a*) the various customs, notions, habit of thought and living prevalent in various localities and communities should not be ruthlessly sacrificed to the doubtful advantages of uniformity; (*b*) judicial decisions and precedents have to a large extent given certainty to the existing law; and (*c*) legislation should keep pace with and not outstrip progress in the community, as would be the case if the draft Hindu Code were made a statute.

BOMBAY—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification	For codification
(16) Mr. C. M. Mahadeviah, Oriental Life Office, and others (page 124).	(18) Sri Ram L. Gogtay (page 66—typed).
(17) Shukla Yajushakheeya Madhyand Maharastriya Brahman Sabha, Poona (page 143).	(19) Opinion of the Bombay Presidency Women's Council, Town Hall, Bombay (page 97).
(18) Mr. Sunderlal N. Joshi, Vidwant Sabha, Nadiad (page 149).	
(19) Bombay Provincial Dharma Sangha, Madhav Bag (page 150).	(20) All India Veerashaiva Law Reform Committee, Devangeri (page 105 of the typed report).
(20) Karbhari to His Holiness Sm. Jagadguru Sri Sankaracharya Maharaj, Poona (page 151).	(21) Mr. V. V. Joshi, LL.B., Baroda (pages 109—121).
(21) Bombay Provincial Landowners' Association (page 161)	(22) All India Virashaiva Mahasabha, Sholapur (pages 122—123).
(22) Mr. V. B. Raju, I.C.S., District and Sessions Judge, Nadiad (page 182)—not in favour of legislation until 3 years after the end of war.	(23) Bombay Presidency Social Reform Association (p. 126).
(23) Messrs. N. B. Budhakar and N. A. Deshpande (page 186).	(24) All India Women's Conference (p. 141).
(24) Bar Association, Amalner (page 189).	(25) Bombay Bar Association (p. 163).
	(26) R. S. Bavdekar, Esq. I.C.S., District Judge, Ahmednagar (p. 169).
	(27) Mr. D. V. Vyas, Dt. Judge, Ahmedabad (p. 170).
	(28) Mr. M. C. Shah, Assistant Judge, Ahmedabad (p. 171).
	(29) Mr. P. H. Gunjal, Dt. Judge, Kanara (p. 173).
	(30) Mr. B. K. Delvi, Dt. Judge, Dharwar (p. 177).
(25) Mr. M. P. Mulay, Maliwada, Ahmednagar (page 195).	(31) Sanatan Vedic Dharma Sabha, Surat (page 179).
(26) Resolution of the Hindus of Ahmedabad (page 196).	(32) Mr. S. R. Kaproker, Sub-Judge, Thana (page 190).
(27) Resolution of the Hindus at Hirabad (page 205).	(33) Seva Sadan Society, Gamdevi (page 193).
(28) Rao Bahadur P. C. Diwanji (p. 207), Retired Judge, Advocate (O.S.)—against codification but thinks that the Committee should have codified the existing law as regards each province and placed by its side the suggestions of the committee for the desirable alterations therein.	(34) The Gujratee Hindu Stree Mandal (page 197).
(29) Pt. Vinayaka Sakharama Sastri Tilloo and others of Holkar College, Indore (p. 237).	(35) The Arya Mohilla Samaj, Bombay (page 201).

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

(30)
Rao Bahadur Sardar M. V. Kibe, M.A., M.R.A.S., F.R.S.A., Indore (p. 239).

(31)
Bar Association, Lakhtar (p. 240).

(32)
Resolution of the Anti-Hindu Code Conference, Bombay (p. 241).

(33)
Bar Association, Khargaon (p. 242).

For codification

(36)
Jain Association of India, Bombay. (page 217).

(37)
Bombay Advocates' Association (page 219).

(38)
Bombay Prarthana Samaj (p. 221).

(39)
Bombay Incorporated Law Society (p. 229).

(40)
Rao Bahadur G. B. Patwardhan (p. 232).

(41)
Mr. A. C. Bose, M.A., Ph.D. (p. 235).

(42)
Maharashtra Mahilla Mandal (p. 243).

(43)
Chairman, Lingayat Law Codification Committee, Dharwar (page 246).

(44)
Dr. C. D. Thakkar, Bardoli (p. 248).

CALCUTTA

(1)
Witness No. 3.—Messrs. Phanindra Nath Brahma, ex-Mayor of Calcutta, Rai Bahadur Bijay Bihari Mukherji, Jatindra Mohan Datta, Sanat Kumar Rai Chaudhari (ex-Mayor of Calcutta), Purnendu S. Basu, Phakir Ch. Pal, Biman Ch. Bose, Apurba Kr. Dutta and Sachindra Kumar Rai Chaudhury, representing the Bengal and Assam Lawyers' Association, who said "We are opposing the entire Bill........ In conclusion we submit that the operation of the Code should be put off until it is ratified by a Federal Legislature after Federation is introduced. We are all wholly opposed to codification of Hindu Law."

(2)
Dr. Ananta Prasad Banerji, Principal, Sanskrit College, Calcutta, who said "........There has been no demand for a Code of this kind. It is neither possible nor desirable to have a uniform code of law for all Hindus. India and China have survived because of the very absence of this uniformity. The Committee seek to destroy this wholesome non-uniformity.

(3)
Mahamahopadhyaya Chandidas Nyaya Tarkatirtha, President, Bangiya Brahman Sabha, Mahamahopadhyaya Durga Charan Sankhya Vedantatirtha, Pandit Sarat Chandra Sankhyatirtha, Pandit Narendranath Sidhanta Sastri, Pandit Tripatha Nath Smrititirtha, Secretary, Navadwip Banga Bibudha Janani Sabha, and Pandit Satyendra Nath Sen, Secretary, Varnashram Swaraya Sangha and the Bangiya Brahman Sabha.

(1)
Witness No. 1.—Mr. A. C. Gupta, Senior Advocate, Calcutta High Court, who said: "I am in favour of a uniform law for all Hindus. It is both feasible and desirable".

(2)
Prof. K. C. Chattopadhyaya of Calcutta University—witness No. 2.

(3)
Mrs. Saralabala Sarkar, Dr. Miss Phul rani Dutt and Mrs. Ela Mitra, All India Women's Conference; Mrs Romala Sinha and Mrs. Abala Ghosh, All Bengal Women's Union; Mrs. Soudamani Mehta, Gujrati Stree Mandal; Mrs. Kamala Mukherji, Mahila Atma Raksha Samiti; Mrs. Gita Basu, Post-Graduate Student Women's Section; Mrs. Natarajan and Mrs. Natesan, South Indian Ladies Club; Mrs. Ramabai Srikhandas and Mrs. Malini Divekar, Maharashtra Bhagini Samaj.

CALCUTTA—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

(4)

Messrs. B. K. Chatterji, Chief Auditor, E.I. Rly., and Chotaylal Kanoria as representatives of Dharam Sangha who said: "We are against codification, because it should be done only by men of the type of Jimuthavahana and Vigneswara"...... "Brahmans, Kayasthas and Marwaris are alike opposed to this Code. So are many influential ladies."

(5)

Messrs. Hiralal Chakravarty, Ramaprosad Mukherji, Panchanan Ghose, Bankim Chandra Mukherji, Chandrasekhar Sen and Purnendu Sekhar Basu, representing the Calcutta High Court Bar Association said: "A rigid Code of Hindu Law is not required. There is no case for codification as proposed. No Judge has complained of the absence of a codified law. It is after all the Judges who have to interpret the law finally. Codification will arrest the growth of Hindu Society. It is not practicable or desirable to secure uniformity throughout the country. Artificial uniformity is more harmful than natural diversity. Customs prevailing in particular areas for a very long time should be respected and preserved. The Legislature should not interfere with the basic principles of the Hindu Law".

(6)

Dr. Nalini Ranjan Sen Gupta, Mr. N. C. Das Gupta and Mr. J. Mazumdar, representing the Shastra Dharma Prachara Sabha, said: "The provisions of the Code may be fair, but we object to their being put into a Code and laid before the Assembly. We object to any legislation on the subject by the Assembly."

(7)

Mahamahopadhyaya Pandit Anantakrishna Sastri.

(8)

Babu Tarakchandra Das, lecturer in Social Anthropology, Calcutta University.

(9)

Messrs. S. N. Ghose and H. C. Ghose, representing United Mission, said: "We are of opinion that Hindu Law being of divine origin should not be interfered with by men."

(10)

The Maharani of Natore and certain other Purdanashin ladies—Mrs. Saradindu Mukherji, Mrs. Manzura Banerji, Seja Bowrani (Mrs. Sudhira Bebi) of Dighapatia Raj, Mrs. Pratulpati Ganguli, Mrs. D. Mullick, B. C. Ghose, Mrs. Purnendu Tagore, and Mrs. Ratan Ben Jethi (Gujrati Sevika Sangh) said : "We object to the Code in every respect. We are quite happy as we are. For the sake of a few, such radical alteration should not be made."

(11)

Pandit Akshay Kumar Shastri and Pandit Sarat Kamal Nayatirtha and Smrititirtha representing the Tarakeswar Dharma Sabha.

(12)

Rai Bahadur B. B. Mukherji, Retired Director of Land Records, Bengal.

For codification.

(4)

Sir N. N. Sircar, K.C.S.I., ex-Law Member, Govt. of India stated, "I am not in favour of giving a share of father's property to the married daughter...... I am in favour of monogamy being made a rule of law......... I am personally in favour of a limited right of divorce although I must say that the vast majority of Hindus have a deep-rooted sentiment against it."

(5)

Messrs. R. M. Gaggar, K. C. Kothari and B. D. D. Mundhra, representing the Maheshwari Sabha.

(6)

Messrs. S. C. Mukherji, I.C.S. (Retd.), S. C. Roy, S. M. Bose and Dr. D. Mitra, representing the Sadharan Brahmo Samaj.

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

(13)

Srimati Anurupa Debi and Lady Nanibala Brahmachari, the latter representing as President of the Deshvandhu Mahila Vidyan Samiti.

(14)

Mrs. Basanta K. Chatterjee opposed the Code vehemently in all respects.

(15)

Pandit Narayan Ch. Smrititirtha and Pandit Srijiva Nyayatirtha of the Calcutta Sanskrit College and the Bhatpara Sanskrit College.

(16)

Mr. P. L. Shome, Advocate General, Assam.

(17)

Mr. Rishindra Nath Sarkar, Advocate.

(18)

Swami Ram Shukla Das and five others representing the Govind Bhavan, an organisation which is 30 years old.

(18-A)

Messrs. Satinath Roy and 5 others representing the Indian Association which is a political body founded by Sir Surendranath Banerji and Mr. Ananda Mohan Bose, who state : "We disapprove of the codification of Hindu Law. It is not necessary."

(19)

Hindu Women's Association of which Lady N. N. Sircar (wife of Sir N. N. Sircar, Kt., K.C.S.I.) is the President and Maharani of Natore is the Vice-President, and Lady Ranu Mukherji is also the Vice-President, and Srimati Anurupa Debi (reputed author of several well-known Bengali fictions) is also the Vice-President of this Association, and Mrs. S. R. Chatterji is the Secretary. The Association have sent the written representation and have also given oral evidence through Mrs. S. R. Chatterji and other ladies stating : "We are against the codification of Hindu Law. It is not possible nor desirable and nobody wants it. We are quite happy as we are." Lady Ranu Mukherji gave evidence and stated that she took more or less same view as Mrs. S. R. Chatterji.

(20)

Kumar Purendra Tagore, Barrister-at-law representing the All India Anti-Hindu Code Committee, gave evidence and said: "We do not want the Code but would like the law changed in some minor matters by legislation. But those are not urgent changes."

(21)

Mr. N. C. Chatterji, Barrister-at-law, Mr. Sanat Kumar Roy Chaudhury and Mr. Debendra Nath Mukherji representing the Hindu Mahasabha, gave evidence and said through their spokesman Mr. Chatterji: "We have 1,900 branches in Bengal and our membership exceeds 1,25,000. We had opportunities of ascertaining the opinion of our members on the draft Hindu Code at the recent Jalpaiguri Conference which was attended by 600 delegates. There was

For codification

(7)

Messrs. Sachin Chaudhury, G. P. Kar, K. K. Basu and B. Das, Barristers, Messrs. H. N. Bhattacharya, N. C. Sen, R. N. Chakravarty, Advocates, and Mr. R. C. Kar, Solicitor, said: "Generally speaking, we support the Code. We have certain modifications to suggest."

(8)

A large number of women, estimated at over one hundred and representing various women's organisations, *viz.*, The Hindusthani Association, The National Council of Women in India, The Girl Students' Association, The Barabazar Congress Mahila Sangha and the teachers of the Beltala Girls School, some members of the Saroj Nalini Association, and the All-India Women's Conference arrived and stated that all of them were strongly in favour of the Code and wished it to be passed into law with the least possible delay.

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

unanimity that there should be no fundamental changes in the Hindu Law except by a properly constituted Legislature acting on a mandate given by the Hindu electorate. The present Legislature which is based on the Communal Award is not a proper Legislature. The issue should be decided by Hindus alone and non-Hindus should not vote or have any say in the matter. There should be no codification unless the proposal is supported by a referendum taken among the Hindus or unless the Code is ratified by the Hindu members of a Legislature who have been specifically elected on the issue."

(22)

The Marwari Association, represented by Mr. Baijnath Bajoria, M.L.A., Rai Bahadur Ramdev Chowkhany and Mr. Bhuramal Agarwal; (ii) The Marwari Chamber of Commerce; and (iii) The All-India Marwari Federation, represented by Messrs. I. D. Jalan, M.L.A., Attorney at-law, C. M. Saraj, Pannalal Sarangi and B. S. Sharma gave evidence and said: "We are against codification. We want to retain the right by birth and the doctrine of survivorship."

(23)

The Maharaja of Cossimbazar and Mr. B. N. Roy Choudhury (of Santosh) said :—"We are against the Code; codification is not possible; uniform personal law for all castes in not possible. Contracts, torts, etc., are different. So too is the Social law different."

(24)

Written memorandum of the Saraswat Brahman Association, Bengal, 3, Nandan Road, Calcutta,

(25)

Memorandum of the Secretary, Bar Association, Dacca.

(26)

Memorandum of the Bar Library, Natore.

(27)

Written opinion of Mr. P. C. Chatterji, M.A., B.L., Manager, Tarakeswar Estate.

(28)

Written opinion of Dr. Suniti Kumar Chatterji, M.A., DLitt. (London), F.R.A.S.B., Professor, Calcutta University, who said: "I am completely opposed to the idea of a Code of Hindu Law applicable to all Hindus throughout the country which evidently is the intention of the Hindu Law Committee."

(29)

Written opinion of the British Indian Association, 18, British Indian Street, a very ancient institution representing the Zamindars of Bengal, says : "The legislative interference in the personal law of Hindus, connected as they are age-old religious practices, is unwise, if it is not called for, and the Association considers the proposed legislation as uncalled for, an unjustifiable interference. It will break many homes, ruin the properties, increase litigation and introduce corrosive elements in the social fabric."

For codification

(9)

Written opinion of Mr. Panchanan Ray, P. O. Pingna, Mymensingh.

(10)

Written opinion of Mr. Nirmal Chandra Pal, M.A., B.L., Lecturer, Dacca University.

(11)

Written opinion of Mr. S. G. Mookerjee, Subordinate Judge, Rajshahi.

(12)

Written opinion of Mr. A. S. Ray, I.C.S., District Judge, Birbhum.

(13)

Written opinion of Mr. S. C. Ghosh, Subordinate Judge, Birbhum.

(14)

Written opinion of Mr. H. Banerjee, I.C.S., District Judge, Faridpur.

CALCUTTA—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

(30)
Written opinion of the Howrah Bar Association.

(31)
The Incorporated Law Society of Calcutta.

(32)
Written opinion of the Bar Association, Midnapore.

(33)
Written opinion of the Bengal Landholders' Association.

(34)
Written opinion of the Tamluk Bar Association.

(35)
Written opinion of Mr. B. K. Basu, I.C.S., District Judge, Mymensingh.

(36)
Written opinion of Mr. R. S. Trivedi, I.C.S., District Judge, Murshidabad.

(37)
Written opinion of Mr. S. K. Halder, District Judge, Bakerganj.

(38)
Resolution at a meeting of the Sealdah Bar Association (Civil Court).

(39)
Written opinion of Rai N. N. Sen Gupta Bahadur, District Judge, Burdwan.

(40)
Written opinion of Mr. H. K. Mukherji, Sub-Judge, Burdwan.

(41)
Written opinion of Mr. K. S. Bhattacharji, Munsif, 3rd Court, Burdwan.

(45)
Written opinion of the Bar Association, Ghatal.

(46)
Opinion of the Pleaders' Association, Dinajpur.

(47)
Written opinion of the Bar Association, Baruipur.

(48)
Written opinion of the Bar Association, Basirhat.

(49)
Written opinion of the Maharajadhiraja of Burdwan.

(50)
The United Mission, Adinath Ashram, Calcutta.

(51)
Opinion of the Burdwan Bar Association.

(52)
Opinion of the Bar Association, Khulna.

(53)
Written opinion of the District Bar Association of the 24-Parganas, Alipur.

(54)
Written opinion of Mr. Hari Krishna Jhajhoria, 174B, Cross St., Calcutta.

For codification

(15)
Opinion of the Convention of the Teachers of the Deaf in India, 50, Bondel Road, Ballygunj.

(16)
Written opinion of Mr. S. Sen, I.C.S., District Judge, Howrah.

(17)
Written opinion of the District Judge, 24-Parganas.

(18)
Written opinion of Mr. S. K. Sen, I.C.S., District Judge, Tippera.

(19)
Mr. Prakash Chandra Bose, Advocate, High Court.

CALCUTTA—*concld.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification	For codification
(55) Written opinion of the Rajshahi Bar Association.	
(56) Written opinion of the Bangiya Bidwant Sammelana, Shilgora, P.O., Faridpur.	
(57) Written opinion of Mr. T. C. Das, Senior Lecturer in Social Anthropology, Calcutta University.	
MADRAS	
(1) Diwan Bahadur R. V. Krishna Iyer, C.I.E.	(1) The Right Hon'ble V. S. Srinivasa Sastri said : "I consider this legislation unobjectionable and necessary. Changes in Hindu legal practices and customs can be made only by legislative authority ....I should like to congratulate the Committee on their attitude to orthodox opinion. I feel that this section of our people, clinging as they do to the old ways, have every right to be consulted and to have their views treated not only with respect but as far as possible, with tenderness."
(2) Mr. K. Bashyam (President), Mr. K. Venkatarama Razu (Secretary) and Messrs. N. R. Raghavachari and N. Sivaramakrishna Iyer, Advocates as representatives of the Madras High Court Advocates Association, said: "We consider that this is not the proper time for enacting legislation of this kind, especially as the Legislature is not now a representative one."	(2) Mr. K. V. Krishnaswamy Ayyar, Advocate.
	(3) Mrs. Indirani Balasubramiam.
	(4) Sir Vepa Ramesan, Retired High Court Judge, Madras.
	(5) Mr. S. Muthia Mudaliar, C.I.E., Advocate and ex-Minister.
	(6) Mr. K. Kutikrishna Menon, Govt. Pleader.
	(7) Mr. P. Govinda Menon, Crown Prosecutor.
	(8) Mr. S. Guruswami, Editor, New Viduthalai.
	(9) Mrs. Kunjitham Guruswami, B.A., L.T., Lecturer for the National War Front.
	(10) Mr. P. V. Rajamannar, Advocate General of Madras, and Judge-designate, Madras High Court.
	(11) The Women's Indian Association, Madras, represented by Mrs. Ambujammal and Mrs. Savitri Rajan.

MADRAS—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

(3)
Sri Thethiyur Subrahmanya Sastiar, President of the Madura Adwaita Sabha.

(4)
Mr. K. S. Champakesha Iyengar, Advocate on behalf of Vanamamalai Mutt.

(5)
Messrs. V. P. S. Manian, R. P. Thangavelu and M. Ponnu, representing the South Indian Buddhist Association, said: "We should like Buddhists to be excluded from the Code. We represent 19 Sanghams."

(6)
Mr. V. Appa Rao, Advocate, Vizagapatam, representing for the *Ad Hoc* Committee and Bar Association, Vizagapatam.

(7)
Mr. B. Sitarama Rao, Advocate.

(8)
Mr. S. Srinivasa Iyer, Advocate, Vice-President of the Madras City Hindu Mahasabha.

For codification

(12)
Mr. S. Ramanathan, M.A., B.L.

(13)
Mr. P. V. Sundaravabadulu, Advocate, Chittoor.

(14)
Sri Rao Bahadur D. S. Sarma, M.A., President of the Harijan Sevak Sangh, Andhra Provincial Branch.

(15)
Sri Rao Bahadur V. V. Ramaswamy, Chairman, Municipal Council, Virudhunagar.

(16)
The Vellala Sangham represented by Messrs. A. Arunachala Pillai and others.

(17)
Mr. P. Balasubramania Mudaliar, Editor, "Sunday Observer" and President, The Young Justicites League.

(18)
Rao Sahib T. A. V Natham, B.A., B.L., Special Press Adviser to the Madras Government.

(19)
Srimathi M. A. Janaki, Advocate, Madras High Court.

(20)
Miss Chokkamal, B.A., B.L., Advocate, Madras High Court.

(21)
Mr. V. N. Srinivasa Rao, M.A., Barrister-at-law on behalf of the Madras Majlis.

(22)
Sri V. Venkatarama Sastri representing nine organisations, which have a membership of more than 20,000 with branches in nearly 400 villages.

(23)
Mr. G. V. Subba Rao, President, Andhra Swarajya Party, Goshti, Bezwada.

(24)
Sri V. V. Srinivasa Iyengar, Retired High Court Judge, Madras.

MADRAS—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

(9)
Mr. T. V. R. Appa Rao, Advocate of Narsapur, representing Marsapur Bar Association.

(10)
Messrs. K. S. Mehta and M. L. Sharma representing the Sowcars' Association and the Marwari Association.

(11)
Mr. N. Srinivasa Sastri, Schoolmaster of Papanasham.

(12)
Mrs. Kamalammal of the Asthika Madar Sangham said: "None of the women like the changes made as they are against our traditions and customs."

(13)
Messrs. S. Mahalinga Iyer, T. L. Venkatarama Iyer and V. Narayana Iyer, Advocates and Pandit K. Balasubramanya Sastri gave evidence on behalf of His Holiness the Sankaracharaya of the Kanchi Kamakoti Peeth.

(14)
Dharma Bhushana Dharma Sarvadhikara Rao Sahib N. Natesa Iyer, Advocate, Madura.

For codification

(25)
Mr. E. S. Reddy, Secretary, Nellore District Students' Federation, said: "The Conference of the All-India Students' Federation held in Calcutta in December 1944 was in favour of the Code."

(26)
Mr. P. C. Reddy, of the V. R. College, Nellore.

(27)
Mr. G. Krishnamurthi, Subordinate Judge.

(28)
Vidhwan Kumara Thathachariar, Secretary of the Akhila Bharatiya Vidwat Parisad.

(29)
Mr. V. M. Ghatikachalam of the Madras Provincial Backward Classes League.

(30)
Sir P. S. Sivaswami Iyer, K.C.S.I., C.I.E.

(31)
Diwan Bahadur K. S. Ramaswami Sastri.

(32)
Mr. B. N. Guruswami, Secretary of the Tamilar Nalvazhkkai, Kazhagam, Madras.

(33)
Sri D. H. Chandrasekharaiya, B.A., B.L., President, Mysore Legislative Council.

(34)
Sri K. Balasubramania Iyer, B.L., Advocate.

(35)
Mr. R. Suryanarayana Rao.

MADRAS—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Written statements on codification

Against codification

1. Ranade Hall Conference (Mr. K. S. Krishnaswami Ayyangar, Retd. H.C. Judge, Madras—President).
2. The All India Hindu Mahasabha, Madras Branch.
3. Dewan Bahadur R. V. Krishna Ayyar, C.I.E.
4. The Ramnad District Ladies' Conference (Srirangammal—President).
5. Ranimuthu Rangammal, wife of late K. Ramaswami Naicker, Zamidar.
6. Conference of the Ladies of Madras Tamil Nadu, Kumbakonam.
7. Sri Valammal Ammal.
8. The Hon. Mr. Justice N. Chandrasekhara Ayyar, Judge, High Court, Madras.
9. Mr. K. Balasubramaniya Ayyer, Advocate.
10. Mr. N. Sivaramakrishna Ayyar, Advocate.
11. Mr. C. R. Rajagopalachari, Advocate.
12. Mr. R. S. Srinivasacharya, Advocate.
13. Mr. A. Venkatachalam Pantulu, Advocate.
14. The Trichinopoly Bar Association.
15. The Vellore Bar Association.
16. Committee of the Chingleput Bar Association.
17. Kumbakonam Bar Association.
18. Bar Association, Arni.
19. Members of the Kallakurchi Bar, Arcot.
20. Bar Association, Kutuparamba, Malabar.
21. Members of the Sivaganga Bar.
22. Bar Association, Hullittalai.
23. Bar Association, Udipi (South Kanara).
24. Secretary, Bar Association. Tiruvannamalai.
25. Sri V. G. Ramachandra Ayyar, Advocate and Trustee of Sri Virateswara temple.
26. Bar Association, Tiruvarur, Tanjore.
27. Bar Association, Devakottai.
28. Mr. R. Venkatarama Sarma, Vakil.
30. Mr. T. G. Aravamudan, Advocate, High Court.
31. Sri R. V. V.Tatachariar.
32. Rao Saheb P. S. Krishnamurti Ayyar, Government Pleader and Advocate, Trichinopoly.
33. Sri Srinivasa Ayyar, Vakil, Madura.
34. Sri S. Anantharama Ayyar, Advocate.
35. Sri S. Chidambar Ayyar, M.L.A., Pleader.
36. Mr. A. V. Gopalachariar, Advocate.
37. Sri K. R. Narayanaswami Sastriyar, Advocate.
38. A. Rajagopala Ayyar, Advocate, Madras.
39. C. P. M. Sastriar, Advocate, Coimbatore.
40. S. Rangaswami Pillai, Pleader, Virdachalam.
41. Advocates of Tirukkoyilur.
42. M. L. Nagoji Rao, Pleader.
43. N. Devaraja Rao, Pleader, Arni.
44. A. S. Ayyar, Advocate, Umayalpuram.
45. V. S. Ayyar, Vakil, Papanasam.
46. K. Vardachari, Advocate, Kumbakonam.
47. T. N. S. Ayyar, Advocate, Tindivanam.
48. M. K. Radhakrishna Ayyar, Vakil, Kulitalai.
49. Rao Bahadur R. N. Ayyangar, Pleader, Madura.
50. H.H. Sri Jagat Guru Sankaracharya, Sri Kanchi Math.
51. H.H. Sri Jagatguru Sri Sankaracharya, Sringeri Matt.
52. H.H. Sri Jagatguru Vanamamalai Ramanuja of Nanguneri.

Written memoranda

For codification

1. The Women's Indian Association (A.I.W.C. Branch), Madras.
2. Sir. P. S. Sivaswami Ayyar.
3. Dewan Bahadur K. Sundaram Chettiar, Retd. High Court Judge.
4. Mr. S. Muthiah Mudaliyar, C.I.E.
5. Mr. A. Ranganatham, ex-Minister.
6. Mr. S. Ramanatham, ex-Minister.
7. Mr. J. Sivashanmugam Pillai, ex-Mayor.
8. Sir Vepa Ramesam, Retd. High Court Judge.
9. Rao Bahadur Prof. D. S. Sarma, Retd.
10. Miss E. T. Chokkammal, Advocate.
11. Sm. M. A. Janaki, Advocate, Madras.
12. Mrs. Pankajam Sivaram.
13. The Hon. Diwan Bahadur C. N. Kuppuswami Ayyar, Judge, High Court, Madras.
14. Mr. P. Rajagopalam, I.C.S., District Judge.
15. Mr. P. V. Rajamannar, Advocate General.
16. Mr. V. L. Ethiraj, Public Prosecutor.
17. Mr. K. Kuttikrishna Menon, Government Pleader.
18. The Madras Bar Association.
19. The Advocates' Association, High Court.
20. Bar Association, Karkala (Kanara).
21. Mr. V. Ramachandra Rao, Vakil, Coimbatore.
22. Mr. S. Krishnamachari, Advocate, Srirangam.
23. C. S. G. R. Pillai, Retired Pleader.
24. J.V. Ayyangar, Advocate, Vannarpot.
25. M. R. Srinivasa Rao, Vakil, Saidapetni.
26. Public meeting at Thiyagarayanagar.
27. Meeting of the citizens of Madras Rao Saheb W. C. Naidu, Retd. Dt. Judge.

MADRAS—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

53. H.H. the Jeer of the Ahobila Mutt, Bangalore.
54. Madura Adwaita Sabha, Madras.
55. Rao Saheb N. Natesha Ayyar, Advocate, Madura.
56. The Advaita Sabha, Kumbakonam.
57. Dewan Bahadur K. S. Ramaswami Sastri, Retd. Dt. Judge.
58. Sri Panduranga Devasthanam, Triplicane.
59. Members of Sri Mudradikari Central Committee, Pudukkottai.
60. The Mayavaram Asthika Sabha.
61. Dr. C. R. Chintamoni, Lecturer, Madras University.
62. V. Narayanam, Advocate, Madras.
63. K. G. Natesha Sastri, Madras.
64. The Vaidik Dharma Sangham.
65. Public Meeting of Sanatanist, Uttaradhi Mutt.
66. Ramnad Public Meeting—N. V. Pillai, President.
67. Dharnika Yuvak Sangam, Rameswaram.
68. Astika Sabha, Triplicane.
69. Madras Sowcars' Association.
70. S. Ayar, Advocate, President of the Devakottai Branch of all India Varnashrama Swarajya Sangh.
71. Srilasri Agora Sivacharya Swamigal, Chidambaram.
72. Saiva Sabha, Palamcottah.
73. The Brahman Mahasabha, Sivakanchi.
74. Diwan Bahadur Govindoss Chathurbhujdoss, Madras.
75. G. Ramamoorthy, George Town, Madras.
76. Meeting at Madura, Rao Saheb N. Ayyar, Advocate.
77. Meeting of Hindu Madabimana Sabha, Negapatam.
78. Rao Saheb B. R. Ayyar, Retd. Asstt. Secretary, Home Department.
79. The Raja of Ramnad.
80. K. S. Patracharya, M.E.S. (Retd.).
81. M. Subramania Ayyar, Retd. Dt. Judge, Tanjore.
82. Rao Saheb M. Ganesa Ayyar, Retd. Dt. Munsif.
83. V. Natarajan, G.D.A., Madras.
84. Sri Prathapasimha Raja Sahib, Tanjore.
85. President and Panchayats, Board Members, Vepathur.
86. T. S. Vaidyanathan, B.L., Dt. Tanjore.
87. P. K. Veeraraghava Ayyanger, M.A., B.L.
88. P. R. Vengu Ayyar, M.B.E., Controller of Military Accounts.
89. R. K. Ayyar, Retd., Dt. Board Engineer, Nallur.
90. L. S. Krishna Ayyar, Retd. P. A. to Minister, Assam.
91. K. S. M. Ayyar, Professor, Trichinopoly.
92. Rao Saheb K. C. Chidambar Ayyar, Retd. Collector.
93. S. Laxminarayan Ayyar, Eachangadi, Tiruvedi.
94. Srinivascharya, Madras.
95. Diwan Bahadur S. Raghava Ayyangar, Retd. Dt. Judge.
96. Dr. M. V. Thyagarajan, Chairman, Municipal Council, Kumbakonam.
97. T. K. Venkataraman, Rajamundry College, Kumbakonam.
98. S. Vaidyanath Ayyar, Road Engineer, Kumbakonam.

For codification

28. H.H. Vidyananda Bharathi.
29. Madras Provincial Backward Classes League.
30. Dr. A. Chandu, M.L.A., General Secretary, Sreekandeswaran temple, Calicut.
31. Rao Bahadur V. V. Ramaswamy, Chairman, Municipal Council, Virudanagar.
32. A. Rangaswami Ayyar, B. L., Madura.
33. N. Shiva Rao, Mangalore.
34. E. A. Shivaranam and 25 others of Vellore.
35. Rao Bahadur N. R. S. Mudaliar, M.L.C., Nedupalam.
36. N. S. Ramachandram of Koneri-rajapuram.
37. V. Bhuvarahan Hanumantha Vila, Tanjore.
38. P. B. Chakravarty Ayyanger, B.L.
39. Meeting of the Hindu residents of Marabaneri, Salem.
40. S. R. Chari, Tanjore.
41. Vidwan M. Kumara Tatachariar.
42. G. Srinivasa Raghavachari.
43. V. S. Thiaganajan and four others.
44. The Velala Sangham, Madras.
45. Diwan Bahadur, M. V. Vellodi.

MADRAS—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification	For codification
99. N. Srinivasa Sastri, Tanjore.	
100. N. Srinivasa Sastri, Teacher, Papapasam.	
101. Hindu residents of Kanniampuram and other places.	
102. A. Ramaswami Ayyar, Landlord, North Arcot.	
103. A. L. Subramanyam, B.A., B.L., Karur.	
104. V. Krishna Rao, Government Pensioner, Vellore.	
105. Rao Saheb R. Swaminatha Ayyar, Kumbakonam.	
106. V. S. Subrahmanya Ayyar, Nannilam.	
107. Meeting of Hindu citizens of Conjeevaram.	
108. G. Visweswar Sarma, Thyagarayanagar.	
109. G. Swaminatha Ayyar, Trichinopoly.	
110. Public meeting of orthodox Hindu citizens of Sri Vishnukanchi.	
111. Sub-committee of the Kumbakonam Taluk Mudradhikari's Executive Committee.	
112. R. Balasubramanyaya, Dindigul.	
113. P. R. Gopala Krishna Ayyar, Rtd. Assistant Commissioner of Salt and Customs.	
114. Meeting of the public of Chingleput.	
115. Meeting of the residents of Ganapathinagar and Sivajinagar.	
116. M. Venkataraman, Agent, "The Hindu".	
117. K. R. Krishnaswami Ayyar.	
118. Karur Prisoners Civil and Economic Association.	
119. The Madras Presidency Tamil Sangham.	
120. Kaniyala Brahman Community, Papanasam.	

ALLAHABAD

Against codification	For codification
(1) Mr. Bajranglal Chand of Hiriya, General Manager who said that this is not the time for codification as the Legislature is unrepresentative. A Hindu Code if at all made shuold be done by Pandits who should be employed for the purpose.	(1) Dr. K. R. Sastri, Reader, Allahabad University.
(2) All-India Dharma Sangh of Goorgaon represented by Pandit Ram Datt Jas Tripathy, Pandit Ram Chandra Sastri, Vice-Principal, Goenka Sanskrit College, Banares, Pandit Durga Dutt Tripathy, Professor, Sham-Veda Dharmasangh Vidyalaya, Mr. Debi Narayan Advocate, Allahabad, Pandit Ganga Sankar Mishra, M.A., Head Librarian, Benares Hindu University and Editor of a weekly paper "Sidhanta" said : "We do not welcome codification as it is against the basic principles of Hindu law. In our view one law is not possible nor desirable".	(2) Swamiji of Jaigan Society who has got 7,000 disciples in the whole of India except South, who said that he had not seen the Code and had come to uphold the Sannayasi Samprodaya. He said that there should be one law for the whole world provided the law keeps in view that the Hindu culture is not destroyed.
(3) All-India Sanatan Dharma Mahasabha represented by Chinnaswami Sastri, Pandit Viswanath Sahay, Professor, Dharma Sastra, Hindu University; Pandit Ramchandra Dikshit, Professor, Vedanta, Hindu University and Pandit Mahadeo Sastri, Professor of Nyaya, Hindu University, said that they objected to codification on the ground that the Dharma Sastra is not purely secular and is based on religion and should not be interfered with by Government.	

ALLAHABAD—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification	For codification
(4) The Varnashrama Swarajya Sangha represented by Mr. Deshpande said that the Sangha has 36 branches throughout India and in Indian States. He said that the reaction to codification is of three kinds (1) in the matter of codification (2) against specific change proposed (3) procedure followed by Committee for eliciting opinion. On the first ground he objected to the competency of the Legislature to change Hindu law and he also said that time chosen for codification is inopportune.	
(5) Sreemati Vidya Debi, General Secretary, Arya Mahila Hitakarini Mahaparisad, said that there should be no code and the anti-Hindu Bills should be thrown out and the measures for codifying the Hindu Dharamshastras be stopped for ensuring abiding welfare of both Hindu India and the Government. She said that the members of this Parisad are more than 1,000 and that this Parisad is the universally recognised representative Association of Varnashrami Hindu ladies.	
(6) Sreemati Sundari Bai, M.A., B.T., of the Mysore University and editor of a monthly magazine called "Arya Mahila" agreed with Sm. Vidyabatiravi and added that Sanatan Dharma is eternal religion and it cannot change with the changing conditions of the time.	
(7) Pandit Subodh Chandra Ghiri on behalf of Kashi Pandit Samaj, said: "This is a devise to smash our culture and idealism. The code should not be made".	(3) Opinion of the Right Hon'ble Dr. Sir Tej Bahadur Sapru: "You ask my opinion on some of the questions which are engaging the attention of the Hindu Law Committee and I have no hesitation in submitting my opinion. It must, however, be understood that I represent in no sense the orthodox Hindu point of view and I have a fear that neither at present nor in future can we look forward with much hope to our Legislature agreeing to bring the Hindu Law radically into line with modern conditions. Nevertheless I am expressing my opinion".
(8) Pandit Bibhuti Bhusan Bhattacharya and Bankimchandra Sahityacharyia representing Benares Kashi Samaj.	
(9) Mr. Keshav Mishra representing Dukh Daridra Nibaran Sangh as Chairman, Editor of the bi-weekly publication of "Sri Bijoy and Hindu", said: "I do not like the Code because it destroys Hindu Samaj".	
(10) Sri Sadayatan Pandey, President of the U. P. Dharma Sangha, Vice-President of All-India Varnasharam Sangha, a landlord, said: "I agree with Mr. Deshpande's views as submitted before the Committee. He was also a member of the Provincial Legislature for 10 years.	
(11) His Holiness Sree Jagatguru Birbhadra Sivalacharya, of Karnatak Raichore said that the Code is against the interest of the Hindu society and that the custom in every part of the country should be maintained, and that the uniformity of law is objectionable as it will cut into sadachars, and further "such a code is not wanted by us : people have not asked or it".	

ALLAHABAD—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification	For codification
(12) All-India Agarwala Hindu Mahasabha, U.P., represented by Mr. Viswambornath, B. Com., LL.B., who said: "We do not approve of the Code. There is no necessity of any Code. The present conditions of things must be maintained, that is, there should be different law for different schools.	
(13) OPINION. Pandit Madan Mohan Malaviya, President, All-India Santan Dharma Mahasabha : "I hold that the proposed changes are opposed to the behests of Hindu Shastras and strike at the very fundamentals of the Hindu social system. I further hold that the changes, if any, should come from within the Hindu Society itself, and not enforced on it from outside by an act of the Legislature. Furthermore, the Legislatures, as at present constituted, are not competent to legislate on these questions relating to the personal laws of the Hindus. Holding these opinions, I have advised and I again advise that the proposed legislation should not be proceeded with and the Bill should be dropped. In view of the above I have abstained from offering a detailed criticism of the proposals.	

LAHORE

Against codification	For codification
(1) Lala Jamna Das (Secretary) and Pandit Jagat Ram Sastri, Principal of the Sanatan Sanskrit College, Hoshiarpur, representing the Sri Sanatana Dharma Sabha, established in 1890, which has about 500 members on the rolls, said: "We are opposed to the codification generally."	(1) The All-India Jat Pat Torak Mandal represented by Mr. Sant Ram, President (Editor "Kranthi") Mr. Indar Singh, Assistant Secretary and Dr. Nathuram.
(2) The Sanathan Dharma Prathinidhi Mahasabha, Rawalpindi, represented by Mr. Laxmi Narain Sudan, Vice-President, which says : "We oppose the Code altogether. In fact we do not think that there should be a codification of the Hindu law at all. The Hindu law is not a mere mundane thing. It is a Dharma Sastra or a divine law regulating Hindu life. The expression "Dharma " does not connote mere law. It is not merely for this world: it is also for the other world".	(2) Mr. C. L. Anand, Principal, Law College, Lahore.
	(3) Mr. Narottam Singh Bindra, Advocate of 22 years standing, Lahore High Court, said : "I am in favour of codifying the Hindu Law, but public opinion should be educated beforehand without a proper public opinion the Code will be meaning less".
(3) Rai Bahadur Badri Das, Mr. Jivan Lal Kapur, Bar-at-law and Mr. Harnam Singh, Advocate, representing the Bar Association of the Lahore High Court said: "We are generally opposed to the Code, but not to codification in the abstract. It is not essential that there should be uniformity between the different schools of Hindu law. It will be very difficult, if not impossible, to secure this uniformity".	(4) Miss Nirmal Anand, M.A., Lecturer in Geography, Kinnaird College for Women.

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

(4)

Dr. Prabhu Datt Shastri, Ph.D., Dr. Parasu Ram Sharma, Mahamahopadyaya Pandit Parameswaranand, and Pandit Raghunath Datta Sastri, Vidyalankar, representatives of the Sanatana Dharma Pratinidhi Sabha of the Punjab. who said: "The draft Code was opposed by the Sabha on the following grounds: (*i*) Hindu Law is a part of the Dharma Sashtra and is not ordinary secular law. Peculiar sanctity attaches to our Dharma Shastras (*ii*) The Hindu law has been in force for thousands of years and there seems to be no reason why this legislation should be rushed through and brought into force in January 1946'."

(5)

Mailk Abjan Das, General Secretary, Punjab Provincial Hindu Sabha, said: "I am against codification of the Hindu Law generally, and especially by the present Government and Legislature. The time is inopportune and it will divert Hindus from national activities and make them turn their attention to things which can easily wait."

(6)

Mahamahopadhaya Girdhar Sharma Chaturvedi, Pandit Netramani Sastri, Professor of Darsan, Pandit Chandrabanu Sastri, Professor of Purans and Dr. D.S. Trivedi, Ph.D., Itihas Siromani, Professor of History representing the Sanathan Dharam Vidyapith of Lahore said: "We are altogether against the Code. It is not a mere collection of existing laws, but makes several innovations. According to our belief, no man has a right to alter the Hindu Law. Our law forms part of our religion and nobody has a right to change our religion. Hindu civilization and culture will be entirely destroyed by the Code".

(7)

Sardar Sahib Iqbal Singh, Advocate of 36 years' standing, representing Sikh opinion in general said: "I am totally opposed to the codification of the Hindu Law. It constitutes an interference with the Hindu religion. Hindu law cannot be divorced from the Hindu religion, the two are intimately mixed. Nobody has a right to tinker with the Hindu religion. The source of the Hindu law is the Vedas and no earthly individual has a right to alter the Vedas".

(8)

The Hindu ladies of Lahore appearing in very large numbers before the Committee gave their evidence through Srimati Panditha Krishna Devi, who said: "I hand in a petition against the Code signed by 1,500 women. Two thousand women who have not signed are standing in the grounds outside, and they have also asked me to voice forth their views. A large number of women are fasting and performing Vrathas with the object of preventing the passage of this Code into law. We are all against the provisions of the Code, root and branch".

For codification

(5)

Mrs. Dunichand of Ambala, M.L.A., Miss Krishna Nandlal, M.A., L.L.B., Advocate, Mrs. Snehalata Sanyal Lecturer, B.T. Class, Sir Gangaram Training College, Dr. Mrs. Damayanti Bali, Arya Samajist, Miss Sita Suri, Member of Istri Sahay Sangatan, Mrs. Achint Ram, Congress worker, Mrs. Arun Sarma, President, Brahman Sanathan Sabha, Miss Vidya vathi Sethi Congress worker and Secretary of Stri Samaj, Mrs. Amarnath Kirpal. Arya Samajist, Mrs. Sitadevi Chabildas; Congress worker and Arya Samajist, members of a Women's delegation claiming to represent all sections of women in the Punjab said: "We support the draft Code as we are in favour of the broad principles laid down in it. Hindu women are now suffering considerable hardships owing to the inequitable social laws. They should be economically independent".

(6)

Mr. Nihal Singh, Advocate and President of the All-India Hindu Women Protection Society, said: "Codification is desirable and will make the law handy, but uniformity for all Provinces is not possible".

LAHORE—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

(9)

The Hindu ladies of Amritsar represented by Sardarni Kamalawati Misra, Vice-President of the All India Hindu Women's Conference, appeared in very large numbers and said: "We represent the All-India Hindu Mahila Association which has branches in Amritsar and other parts of India. Our membership runs into lakhs. We are against the Hindu Code and all its provisions".

(10)

Srimathi Chandrakumari Gupta, widow of the late Seth Jagatbandhuji, Patron of Hindu Mahila Samrakshana Sabha and of the Arya Samaj and founder of the Institute for blind girls in Amritsar, Srimathi Santi Devi and a number of other women appeared successively before the Committee and testified to their strong opposition to the Code.

(11)

Pandit Nandlal Sharma of Rawalpindi, General Secretary of the Sri Sanatan Dharma Pratinidhi Mahasabha, Punjab, Rawalpindi, President of the Dharam Sangh, Rawalpindi and of the North West Frontier Province Brahman Sabha (Vidwat Parisad) representing all the above Associations said : "We are opposed to the present Code as well as to the codification of the Hindu Law. The Hindu Law is of divine origin and no Government has the authority to change it. Religion and religious rights do not constitute a central subject and the Code is therefore *ultra vires* the present Legislature".

(12)

Pandit Raj Bulaqi Ram Vidya Sagar, Punjab Bhushan, Retired Religious Instructor, Mayo College, Ajmer, President of the Anti-Hindu Code Committee, Amritsar said : "I am opposed to the code as it is against the Shastras. The Government have no power to alter the Shastras. Manus Code is unalterable for all time".

(13)

Mehta Puranchand, Advocate, representing the Dharma Sangh, Lahore, said: "The Code has not been properly circulated in the Punjab and that there has therefore been no proper opportunity for the people to place their objections before the Committee. The Code has not been circulated in the rural areas where the bulk of the population lives. The Code goes directly against the Smritis and that is my main objection".

(14)

Pandit Mehar Chand Sastri of the Sanatana Dharam Sanskrit College, Bannu, N.W.F.

(15)

Pandit Rubilal Sharma, Secretary, All-India Dharma Sangh, Lala Mokhamchand, Advocate, Pandit Raghunandan Prasad, M.A., M.O.L., Professor, Oriental College, Punjab, Pandit Prashivji Ramdwara, representing Sanatan Dharma Prachar Sabha.

For codification

(7)

Dr. Miss Vidyawati Sabharwal, M.B., Ch. B. (Edin.).

(8)

Mr. C. L. Mathur, Reader, Law College Lahore.

(9)

Miss Subharwal, Principal, Fateh Chand College for Women said : "Codifidation of the Hindu Law is desirable but the Code must be in Sanskrit and the work must be done by scholars well versed in the Hindu Dharma Shastras".

(10)

Mrs. Lekhwati Jain of Amritsar said "I am here as the representative of the Jain Mahila Samiti which is an All-India body. I support the Bill but there are some provisions in it which I do not like".

LAHORE—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

(16)

Mr. Kesho Ram, Advocate, President of the Bar Association, Amritsar and also of the Durgiana Temple Committee, said that the whole of Amritsar including the Arya Samajists are opposed to the codification of Hindu Law.

(17)

Moolraj Kapoor Kashatriya, Upamantri Dharma Sangh, Punjab Prantik.

(18)

Brahmachari Gopi Krishan Vyas, representative and delegate of all the Sanskrit students of Sitala Mandir in Lahore.

(19)

Mr. Raghunath Rai, Barrister, Lahore.

(20)

Pandit Brahmu Ram, General Secretary, Kangra Sudhar Sabha, representing an area inhabited by 9 lakhs of Hindus.

(21)

Mr. Some Prakash Sud, Secretary, Arya Samaj, Lahore Cantt.

For codification

NAGPUR

Against codification

(1)

Mr. G. T. Bride, M.A., L.B., Advocate, said: "I am neither wholly in favour nor wholly opposed to the Draft Code. This is not the time for wholesale codification. The consideration of the Code should be postponed until two years after the war".

(2)

Dr. D.W. Kathalay, Advocate, supported by—Dr. B.S. Moonje, and Mr. B. G. Khaparde, an ex-Minister of the Central Provinces said : "I object to codification in general and to codification of the Hindu Law in particular".

(3)

Diwan Bahadur K. V. Brahma, Advocate, said : "I have read the Code and do not want it to be made into law. I oppose codification, principally because it will destroy our culture, traditions and character."

(4)

Mr. B. D. Kathalay, B.A., LL.B., Advocate.

(5)

Professor M.R. Sakhare, M.A., T.D. (Cantab.) and Mr. I. S. Pawate, Sub-Judge, Baramati, Poona, on behalf of the Lingayats of the Bombay Presidency and as representatives of the All-India Veera Saiva Mahamandal, Sholapur and also of the Veera Saiva Sudharan Samaj said : "We Lingayats should be recognised as having a separate religion". Mr. Pawate gave his personal views as against the codification : Mr. Sakhare expressed his personal views in favour of codification.

For codification

(1)

The National Council of Women in India represented by Mrs. Ramabai Thambe, Miss. A. J. Cama, Mrs. Naidu and Mrs. Mandpa.

(2)

Mrs. Natesha Dravid and Miss P. Pradhan, M.A., LL.B., Advocate, Members of the All-India Women's Conference (Nagpur Branch).

(3)

Mr. A. R. Kulkabni, B.A., LL.B., Secretary of the Bar Council.

(4)

The Jaina Seva Mandal, Nagpur and the Jain Research Institute, C.P. and Berar represented by Mr. M. B. Mahajan, Advocate, Akola, Mr. W. J. Danora, Pleader, Chander Pandit Sumathi Chandra Divakar Shastri Nyayathirtha, B.A., LL.B., Mr. D. J. Mahajan, and Mr. L.S. Alaspurkar, B.A., LL.B., General Secretary, Jaina Seva Mandal, Nagpur.

(5)

Dr. K. L. Dattari, B.L., D. Litt. on behalf of Dharma Nirnaya Mandal.

NAGPUR—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification	For codification
(6) Diwan Bahadur Sita Charan Dube, Advocate.	(6) Mr. N. V. Machewa, Organiser of Reformed Marriage Institution, Nagpur.
(7) Mr. P. B. Gole, LL.B. (ex-Minister of the Central Provinces), Mr. Gangadhar Hari Paredkar, Miss Vimal Thakkar and Mr. Radhakrishna Lachmi Narain representing the Varnashrama Swarajya Sangh of Akola, which has a membership of more than 500. Miss Vimal Thakkar said : "The present Code destroys the stability of women's life. It severes family ties and the brother will cease to feel sympathy for his sister. Litigation will increase".	(7) The Hon'ble Justice Sir Bhavani Shankar Niyogi of the Nagpur High Court said : "I support codification because I consider a Hindu Code to be necessary. I am generally in favour of the provisions found in the Draft Code".
(8) Mr. Kasturchand Agarwal, Pleader, Soni, Chindwara, said: "I am entirely opposed to the codification. The idea is repugnant and offensive to our feelings. We believe that our law is divine. It forms part of Hindu scriptures which have been revered from time immemorial".	(8) The All-India Jat Pat Torak Mandal represented by Mr. Sant Ram, President (Editor "Kranthi"), Mr. Indar Singh, Assistant Secretary, (Officer of the N.W.R.) and Dr. Nathuram Member of the Working Committee, (Chemist).
(9) Mr. S. N. Kherdekar, B. A., M.L., Advocate, Nagpur, said: "I am opposed to codification. The present Hindu Law is almost settled and the Code will unsettle it again. I am definitely opposed to wholesale codification as proposed by the Committee".	(9) Mr. C. L. Anand, Principal, Law College Lahore.
(10) Lady Parvatibai Chitnavis, Mrs. Laxmibai Paranjpe, Mrs. Premilabai Varadpande, Miss Santabai Dewande (a Graduate of the Nagpur University) and Mrs. Tarabai Ghatate said: "We have read the Code, but are against it. The first question is why in a country like India where there is no Code for the Muslims or the Christians, there should be one for the Hindus ? By passing this Code, all our past traditions about religious law will stand abolished".	
(11) Mr. R. M. Kate representing the Hindu Nationalist Party of Nagpur said: "The Draft Code was opposed to the basic principles of Hindu Law. There is a curious mixture of thought in it, as regards biological evolution and immutability of law. Our culture is based on the divine law and the vedas are only the expression of that law. It is an immutable law. Our sanatanism is ever fresh and suitable to all times. It is not merely an old historical relic, devoid of present significance. Our party is against the codification".	

NAGPUR—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

(12)

Lala Jamna Das (Secretary) and Pandit Jagat Ram Sastri, Principal of the Sanathan Sanskrit College, Hoshiarpur, representing the Sri Sanathana Dharma Sabha, established in 1890, which has about 500 members on the rolls, said: "We are opposed to the codification of Hindu Law generally".

(13)

The Sanathan Dharma Prathinidhi Mahasabha, Rawalpindi, represented by Mr. Laxmi Narain Sudan, Vice-President, which says : "We opposed the Code altogether. In fact, we do not think that there should be a codification of the Hindu Law at all. The Hindu Law is not a mere mundane thing. It is a Dharma Sastra or a divine law regulating Hindu life. The expression "Dharma" does not connote mere law. It is not merely for this world; it is also for the other world".

For codification

ORISSA

Written Statements

Against codification

(1)

Pandit Nilakanta Das, M.L.A., Cuttack, says: "I am against the codification of the personal laws of the Hindus. The whole basis of the sacramental law is that its source is the Holy Text and not a statute. This basis is wholly lost by codification".

(2)

Rai Bahadur Charuchandra Coari, M.Sc., B.L., District Judge, Ganjam , Puri.

(3)

Mr. L. N. Misra, Government Pleader, Puri, writes : "The various provisions as embodied in the draft code are opposed to principles on which Hindu Law has been based. It is likely to create fragmentations of property and thereby reduce many families to ruin. It is unjust inasmuch as it gives daughter share in father's property but does not give any share to the son in mother's stridhan property. It will give rise to various litigations and joint family properties will be squandered away. The law relating to marriage is repugnant to Hindu ideas.

(4)

Mr. Lokenath Patnaik, M.A., B.L., Advocate, Puri.

(5)

Mr. S. Supakar, Pleader, Sambalpur.

(6)

Rai Bahadur Gopal Ch. Praharaj, K.I.H., Advocate and Zamindar, Cuttack writes "I have gone through the provisions of the Draft Code and am of opinion that it clashes with the age-long religious traditions, sentiments and principles of the Hindus".

(7)

Rai Bahadur Chintamani Acharya, Secretary, The High Court Bar Association, Cuttack, writes: "We are always opposed to legislative interference on the personal law of Hindus".

For codification

(1)

Mr. B. K. Ray, Advocate-General of Orissa.

(2)

Orissa Women's League of Service, Cuttack.

(3)

Andhra Mahila Samaj, Berhampur.

(4)

R. L. Narsimhan, Esq., I.C.S., District Judge , Cuttack.

(5)

Sri Kopargam Ramamurti, Pleader, Behrampur, Ganjam.

(6)

Sri Govindaprasad Saha, Pleader, Jaipur.

(7)

G. Ranga Row, B.Sc., Secy., Andhra Literary Association, Cuttack.

(8)

The Orissa Provincial Andhra Association, Cuttack.

(9)

A Sub-Committee consisting of lawyers ladies and Pandits elected by the Berhampore Public.

(10)

P. Jaganathaswami, M.A.,Lt., Retired Principal, Maharaja's College, Parlakimedi.

ORISSA—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification	For codification
(8) The Jaipur Bar Association.	
(9) The Bar Association, Bargarli, Sambalpur.	
(10) The Muktar's Bar Association, Cuttack.	
(11) The Bar Association, Balasore.	
(12) Pandit Parikhit Das Sharma, Secretary, Utkal Branch of All-India Varnasharam Sangha, Cuttack.	
(13) Pandit Sri Damodar Shastri, Vidyavinode, Kavya-Mimansa-Smriti Tirtha, Priest of Lord Jagannath, Puri, writes, "It is not my opinion to go against the Vedas made by God, the priceless wealth of the Hindus and the religious scriptures made by the past wise sages who could look into time distinctly and intuitively and who established the Hindu sociology that the Vedas and Dharma Shastras makes the Hindus happy both in this life and the life to come".	
(14) Pandit Kaviraj Ananta Tripathi Shrma, M.A., P.O.L., Bhesajmandir, Parlakimedi, writes "In my opinion the Draft Code will ruin the Hindus and their religion".	
(15) Sri Parashuram Guru, President, Sanatana Dharma Rakshini Utkal Brahmana Samaj, Sambalpur.	
(16) Sri R. C. Misra, President, Aranyak Brahman Samaj, Sambalpur.	
(17) Sri Govinda Das, Vidwan, Oriya Pandit, Maharajah's College, Parlakimedi.	
(18) Pandit Shyam Sundar Nath Sathoo, Cuttack.	
(19) Pandit Sri Chandrasekhara Brahma, Sankhya Tirtha, Vedanta Tirtha, retired Sanskrit Pandit, Ganjam.	
(20) Harihara Misra, Kabyatirtha, Secretary, Sharma-prasarini Samiti, Dharakote.	
(21) Pandit Sri Jagannath Rath, Sahityacharya, Sanskrit and Oriya Pandit, Kallikote Collegiate High School, Berhampore.	
(22) The Berhampore Pandit Sabha.	
(23) Rai Bahadur T. Venkatakrishnaiya, B.A., B.L., Land-holder, Chatrapur, Ganjam.	
(24) C. Nayak, Esq., Retired Deputy Collector, Sambalpur.	

ORISSA—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification	For codification
(25) The Secretary, Orissa Landlords Association.	
(26) B. K. Jyotish Bisarad, Khallikote, Ganjam.	
(27) The Oriya People's Association.	
(28) The Golconda Vyapari Srivalshnava Association, Berhampore.	
(29) B. Venkateswariu Pantulu, Retired Tahsildar, Parlakimedi.	
(30) Sri Jadunath Kavyathirtha, Head Pandit, Sanskrit Toll, Angul.	
(31) Raghunath Panigrahi, Sahitya Bagish.	
(32) Somanatha Sastri and thirty-two other Udarsingi, Ganjam.	
(33) Manoranjan Ray, Judge, High Court, Sonepur State (Retired Additional District and Sessions Judge, Bengal).	

ASSAM

Against codification	For codification
(1) Sub-Judge, Sylhet.	(1) P. L. Shome, Esq., Advocate-General, Assam.
(2) Rai Bahadur Kalicharan Sen, Gauhati, writes "This is a dangerous law which is sought to be introduced as Hindu Code. All the Hindu Text as regards successions and the decision of the highest Court of law have been ignored and the framers seek to devise a law according to their own choice and liking. They have taken the place of our sacred law givers and of our judicial Courts.	(2) B. Sen, Additional District Judge, Sylhet.
(3) The District Bar Association, Sylhet says:"The present attempt at codification of Hindu Law is the cumulative result of the co-ordination and combination of all these anti-Hindu forces. In our opinion the proposed code if passed into law will bring about economic ruin, social disintegration, and cultural degeneration of the Hindu Community as a whole."	(3) G. S. Guha, Esq., M.A., B.L., Barrister-at-law, Deputy Commissioner, Darrang.
(4) The Bar Association, Hallakandi.	(4) Dharmadar Dutt Government Pleader, Sylhet.
	(5) K. R. Barman, Government Pleader, Gauhati.
	(6) Rai Bahadur S. Doweraah, Government Pleader, Dibrugarh.
	(7) The Government Pleader, Dhubri.
	(8) C. Sarma, Esq., Government Pleader, Tezpur.

ASSAM—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

(5)
The Bar Association, Silater.

(6)
Jatindra Nath Chatterji, M.A., B.L., Secretary, Hindu Dhana, Sabha, Dhubri.

(7)
N. C. Ganguli, Secretary, Tezpur Bar Association.

(8)
The Bar Association, Mangaldai, Secretary.

(9)
Mr. Jogesh Chandra Biswas, Tarapur, Silchar, says: "We need not carry on foreign culture in this country. The Rishis were not lacking in fore-sight. Modifications of mis-followings may be carried on with strict adherence to Hindu Philosophy. As for divorce, the effects on this system may clearly be seen in the foreign countries, wherefrom many reformers are now highly appreciating the ideal of Hindu marriage"

(10)
The Secretary, Bar Association, Dhubri.

For codification.

(9)
The Bar Association, Barpeta, Assam, while endorsing the fundamental principles of the draft Hindu Code raises its objections to the proposed provision in the Code as regards daughters' right of inheritance. On this ground, that it will bring about disunity and disruption among the Hindu families and disintegration of the ancestral property may be its results.

(10)
The Secretary , Goalpara District Association, Dhubri.

(11)
B. Rajkhowa, Honorary Registrar, Dibrugarh.

(12)
The Secretary, Nowgung, Bar Association.

NORTH-WEST FRONTIER PROVINCE.

Against codification

(1)
The Advocate-General, North-West Frontier Province, entirely agrees with the opinion of the Government Pleader, Kohat, as given in item (2) below.

(2)
Government Pleader, Kohat, says: "In the first place, the people seem to be totally against legislation on religious matters such as the basic Hindu Law. Circumstances and Customs differ in different localities and provinces. So does the Hindu Schools of Law differ since ages. No necessity has been felt to codify it".

(3)
Ch. Iswar Dass, B.A., LL.B., Pleader, Secretary, Bar Association, Kohat, and Secretary, Hindu Panchayat, Kohat (registered) says: "The codification of Hindu Law on the lines as laid down in the Draft Hindu Code is, on major points, quite different to the basic principles of Hindu Law as laid down in the holy scriptures. So far the present draft is concerned it overrides many of the circumstances and customs prevalent in different parts of India and is bound to cause litigation, bad blood, fueds and inharmony in the Hindu Family."

For codification.

(1)
The Hon'ble the Judicial Commissioner N.W.F. Province.

(2)
The Deputy Commissioner, Peshawar.

(3)
Mr. Raushanlal, Advocate, Dera Ismail Khan.

(4)
Sri Ramjidoss, Advocate, Abbottabad.

(5)
Mr. R. S. Nanak Chand, B.A., LL.B., Advocate, Mardan.

(6)
Tussi Dass Gandhi, Dera Ismail Khan.

NORTH WEST FRONTIER PROVINCE—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification	For codification
(4) The Hindu Association, Peshawar Cantonment.	
(5) Sanatan Dharma Sabha, Bannu.	
(6) Hindu residents of Nowshera Cantonment Area.	

SIND

Written Statement

Against codification	For codification
(1) Hon'ble Dr. Hemandus Rupchand Wadhwani, Minister in charge of the Public Health, Government of Sind, says: "So far as the law of succession is concerned I agree to the principles embodied in the Code. As regards the question of marriage, dissolution, guardianship and adoption, etc., I am of the opinion that the present Hindu Law should not be disturbed in the main principles."	(1) Mr. Rupchand Bilaram, Retired Judge of the Chief Court of Sind (not in favour of Monogamy and Divorce.)
(2) Sri Sanatan Dharma Sabha, Ramabhag, Garrikhata, says: "The Sabha voices its strong protest against the most reactionary and irreligious course of action contemplated in the Hindu Code. Words are not sufficient to condemn the sacrilege and heniousness of the step." "Sanathan Dharma Sabha and Kanya Vidyalaya, Rambagh, Garrikhata, Karachi, emphatically protests against the codifications of Hindu Draft Code Bill and is firmly of opinion that neither the Government of India nor Provincial Government have any right to interfere in the matter of personal laws of the Hindus".	(2) Mr. Lailarem Jethchanand, Retired Judge and Mukhi Khudabadi Amil Panchayat (not in favour of Divorce and married daughters as simultaneous heirs).
	(3) Mr. Kimatrai Bhojraj, Advocate, late President, Karachi Bar Association and Chairman, Sind Bar Council (not in favour of Divorce and daughter as a simultaneous heir).
	(4) Sukkur Bar Association says : "Apostacy from religion must be made a disqualification for inheritance, and if this amendment is not adopted the entire Code must be rejected".
	(5) Mr. Kishindas Jhamrai, Advocate Hony. Secretary, District Law Library, Sukkur (Sind).

BALUCHISTAN

Against codification	For codification
(1) The Hindu Panchayat, Quetta, is of opinion: "The Draft Hindu Code as proposed cuts at the very root of the Hindu Law in existence since the ancient times and the proposals contained in the Draft Code are therefore not acceptable to the Hindu Community of the Province."	(1) Bar Association, Quetta.
(2) The Hindu Panchayat of Loralai.	(2) Hindu Panchayat, Fort, Sandeman states: "We have no comments to make".
(3) Hindu Panchayat at Sibi.	

DELHI

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

WITNESSES

(1)

Ganpat Rai, Esq., B.A., LL.B., Convenor of the Opinion Committee, Delhi Provincial Hindu Mahasabha, both in his written opinion and evidence opposed to the codification, on the ground that the majority of mute millions will never be reconciled to any radical changes in their personal law, which is a matter to them of their religion being a fundamental principle of British rule in this country, the personal law of the subject will not be interfered with, see page 144 of the written statement, and also on the ground that it is an inopportune time for this legislation for more than million Hindus who will be affected by the Hindu Code are on active service listed in the Army, Air Force and Navy, and are consequently out of India, and they are unable to express their opinion.

(2)

Jnan Prokash Mitel and Probhu Doyal Sharma of Sanatan Dharma Rakshini Sabha opposed almost all the provisions of the Code, being opposed to the Shastras.

(3)

Sri Chand Karan Sarda, President, Rajputana Provincial Hindu Sabha, Ajmer said both in his written opinion and evidence that the Code had not been published in vernacular, (2) that the draft Hindu Code should be suspended till the formation of a new Assembly because the present one is not a fully representative body, and on the ground if the Code be passed into law it will abrogate many settled pinciples, customs and usages of the people which they have been practising for generations.

(4)

Rai Bahadur Haris Chandra, Advocate, President, Provincial Hindu Mahasabha, Delhi, said that the Punjab Hindus are governed by customs and opposed the Code.

(5)

Sri Chatar Behari Lal, Senior Advocate, Delhi, states. "The subject of Hindu Law is vast one and requires considerable time, learning, industry and research for overhauling and superseding the law which has been governing the Hindus for generations and ages, Hindu Law is not like the Common Law of England nor it is a Statute Law framed by any monarch, any authoritative body or legislature............... A code like this cannot be acceptable to the Hindus in general and particularly to the Hindus of this part".

(6)

All India Digambar Jain Parishad, All India Jain Mahasabha said, "The present code is not acceptable to Jains and even Hindus of other sects and religions are strongly opposed to it".

For codification

(1)

Acharya Chandra Sekhar Sastri, Editor of "Vaishya Samachar".

(2)

Mr. Jodu Prosad Gupta.

(3)

Mrs. Nehru, Mrs. Renuka Ray, and Mrs. Chandrakalasha Sahay on behalf of All-India Hindu Women's Conference, said that they represent the vast majority organised women of India who were in favour of the Code and that the opposition to the Code was from the aristocratic women and from the women belonging to upper middle class.

Written Statements

(4)

The Anti Caste Association, New Delhi.

(5)

Jaichandra Sharma, Esq., General Staff Branch, General Headquarters, New Delhi.

(6)

International Aryan League, Delhi.

(7)

Lord Krishna Salvation Mission, Delhi.

(8)

The South India Club, New Delhi.

(9)

Sir J. R. Goyal, Editor, "The Medical Review of Reviews", Delhi.

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

For codification

Written Statements—contd.

(7)

Sri B. D. Jain, Mahasabha Office, Nai Sarak, Delhi, said:"The greatest defect is that those who have framed it have taken into account the customs and traditions followed in Madras. No consideration appears to have been given to the customs followed by the Jains. Only the decisions given in the Madras Courts have been quoted. Such a code cannot be acceptable to the Hindus even, far less the Jains".

(8)

Delhi Provincial Varnasharam Swarajya Sangh said: "Neither the Emperor of India, nor even any one of his other subordinate political authority as well is morally justified and rightly entitled to meddle over with the religious Dayabhag or Mitakshara and similar other Nibandhas dealing with particularly division of property, to be inherited by most deserving and real heirs to an individual and which have not only been accepted, but also followed faithfully so long by men of good disposition and philanthropic nature, and thus to abrogate and to replace them for good by the innovation of an arbitrary Hindu Code in English, framed by the Hindu Law Committee appointed by the Government of India of her own accord and at her own instance".

(9)

Bari Panchayat Vaishya Besa Aggrawal (Registered) said: "Our institution take very strong objections to the present Bill as regards to (1) inheritance (2) Divorce, (3) Sagotra Marriage, (4) Adoption; as it will destroy the harmony and status of the family and in the long run the name of the Hindu will disappear from the pages of the history."

AJMER

Written Statements

(1)

Rai Bahadur Pt. Trilokinath Sharma, Railway Magistrate, Ajmer said: "Uniformity in law is *prima facie* desirable but I am afraid such revolutionary changes as are contemplated by the draft will not be acceptable to the Hindu public in general. Those who still rely upon Sruti, Smriti, caste and family customs and usages will find it very difficult to reconcile themselves with the changes proposed to be introduced".

(2)

Rai Sahib J. L. Rawats, Additional Assistant Commissioner, Ajmer, writes: "The Bill seeks to make unjustifiable inroads on the religious sentiments of the Hindus and Hindu Society. Customs and usages are sought to be done away with. The farmers wrongly assume that the Indians have reached a stage when the laws of the western civilization can be enforced on the Indians".

(1)

Manmal Jain, Esq., Editor, "Oswal", Ajmer.

(2)

Mr. Ghisu Lal, Advocate, Ajmer, while expressing his opinion in favour of codification observed, "But inasmuch as the majority of the Hindus live in villages and the number of those who can read and fully understand English is almost negligible, it is most necessary and desirable that the proposed draft of the Code should be translated in Hindi and distributed, broadcast before it is put before the Assembly, and this must be done even if we may have to put it before the next Assembly after the war".

AJMER—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Written Statements—contd.

Against codification	For codification
(3) The Bar Association, Ajmer, states, "The proposed Code, instead of codifying the tenets of the Hindu Law obviously aims at engrafting upon the Hindu society practices repugnant to the Hindu Dharmashastra. The proposed codification is therefore undesirable".	(3) The District Judge, Ajmer-Merwara, states that he is in general agreement with the opinion of the Bar Association "though in one important matter I disagree, *e. g.*, divorce".
(4) Rai Bahadur Pt. Mithanlal Bhargava, Ajmer, said that the Code was not a complete one. The code supersedes all ancient customs or usages.	
(5) President of the meeting of the Hindus of Ajmer—Rai Bahadur Pt. M. L. Bhargava said : "The present draft Hindu code should not be introduced in the Legislative Assembly and the Hindu Law Committee should be dissolved".	

COORG

Written Statements

(1) Diwan Bahadur K. Chengappa, Chief Commissioner, Coorg, writes : "If as proposed in the draft Hindu Code, partition is recognised and permitted not only among the sons but also among the heirs detailed in section 5 of part II of the Draft Code, it will definitely mean the ruin of the Coorg families. It is indeed difficult for people who are not conversant with the customs and manners of Coorgs to appreciate the harm which may befall the Coorg community if it is brought within the purview of the Draft Code."	(1) The District Judge, Coorg.
(2) Rao Bahadur K. T. Uthappa, B.A., Assistant Commissioner and District Magistrate of Coorg, said : "The provisions of the Draft Hindu Code, if brought into force in Coorg, will ruin the corporate existence of Coorg families, will upset the law of succession, offend section 45 of the Coorg Revenue Regulation and aid further fragmentation of family lands and obliterate the names of families in Coorg".	(2) The Secretary, Bar Association, Mercara.
(3) The President, All Coorg Kodava Sabha, writes: "The Sabha will deem it a great honour if the Law Committee is pleased to exempt Coorg from the operation of the Code and give a hearing to the Sabha for the clarification of the points raised".	(3) President, Coorg Temple Funds Committee.
(4) Secretary, Bar Association, Virajpet, said : "The well-established customs which have been healthily followed for generations should not be disturbed as otherwise a lot of harm would be caused to the society".	

PATNA

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification

WITNESSES

(1)

Sree Ramji Brojendra Prosad, Retired Subordinate Judge said : "I do not like this code. It is opposed to the basic principles of Hindu law."

(2)

Mr. Awadh Behari Jha, Advocate of the Patna High Court and a Sanskrit Scholar too, says: "I am very much opposed to the Hindu Code. Instead of codification a new law is being thrusted on the Hindus ....We are going to have a statute which will repeal existing laws altogether. The vast majority of people do not want it and it is considered as an intolerable encroachment on their personal laws and religion."

(3)

Sri Pancharatna Lal, President, Hindu Sabha, P.O. Shergarh, Dt. Gaya, said: "The Sabha consists of more than 1,000 members. We do not approve of the Code."

(4)

Mr. Nalkishore Prosad, Advocate, Patna High Court, said : "Some of the provisions of the code are revolutionary and we do not want the code in its entirety".

(5)

Mr. Awaj Behari Saran, Government Pleader, Sahabad (Arrah) said:"I do not approve of this codification. The codification may be made so far as it is declaratory of Hindu law. The codification must be of the law as it exists in different parts of the provinces."

(6)

Mr. G. P. Das, Government Pleader and Public Prosecutor of Orissa at the Patna High Court, says : "I am generally against the codification of Hindu Law, because (*i*) the present time is not suitable; (*ii*) I do not think that there is any necessity for this codification, because the Sastras and the Sanhitas and the case laws are sufficient, to decide any dispute regarding any property.............If there is no majority in favour of the reform suggested, the law makers should be advised to drop the measure".

(7)

Mr. Nitai Chandra Ghose, Advocate, Patna High Court of 27 years' standing, says ".......... In my opinion a uniform law is not possible owing to different customs in different provinces."

For codification

(1)

Dinapore Bar Association by a narrow majority of one supports Codification (13 to 12), if for no other reason because it simplifies the law and makes it easy.

Written Statements

(2)

The Hon'ble the Chief Justice, Patna High Court, says that he is in favour of codification on principle, but refrains from expressing an opinion on the proposed changes as they are a matter for the Hindu Community.

(3)

Mr. Justice Meredith said : "The matter is of course primarily for Hindus. Speaking for myself I am on the whole in favour of codification."

(4)

Mr. Justice B. P. Sinha endorses the above views.

(5)

Mr. Justice J. Imam.

(6)

Mr. Justice R. B. Beevor.

(7)

The Judicial Commissioner, Chotanagpur, Ranchi.

(8)

The District Judge of Sahabad.

(9)

District Judge, Saran.

1. That a uniform Code of Hindu Law is neither possible nor desirable-*contd.*

Against codification	For codification
WITNESSES—*contd.*	
(8) Rai Tribhuban Nath Shahay, Advocate of the Patna High Court of 31 years' standing; representing the Central Bihari Association, started in 1937 having 15 branches all over the province of Bihar, says: "There is no necessity of codifying it. I am against unification, which is not possible. There are different schools of Hindu law which cannot be unified by long course of decisions, they have been interpreted differently. Besides the legislatures are now represented by people who do not represent the country. If election is made on this issue, then there will be proper representation".	
(9) Mr. Kapil Deo Narayan Lal, Advocate, Patna High Court since 1926, Vice-President of the Hindu Mahasabha, says, "I am opposed to the codification of Hindu Law on the ground of sentiment and I feel that the Hindu Law has sustained the attacks of foreign civilization, and the ideals embodied in this law have remained unimpaired. ....It is not desirable to have uniform law even if possible."	
(10) Mr. Manmatha Nath Pal, Advocate, Patna High Court, also a Sanskrit scholar of repute. said that codification is not possible as uniformity is neither possible nor desirable. It is possible for a genius like Halaudha, Prime Minister of Ballal Sen, to codify Hindu law. It is genius of Jimutbahana which laid down the law of Dayabhaga school. Hindu law was enacted in Sanskrit and therefore any Code of Hindu law must be in Sanskrit and should be translated into different vernaculars.	
(11) Mr. Satis Chandra Misra, Advocate, High Court and Professor of History, Bihar National College, says:"I am opposed to the Code because codification is unnecessary, also on the ground of sentiment. It is possible to have an uniform code but undesirable".	
(12) Patna Bar Association; represented by Mr. Krishnadeo Prasad said, "We are against codification on several grounds as suggested in our memorandum. The legislation may codify the existing law and may amend *i.e.*, declare the old law where judicial decisions have gone astray but not transplant laws of the desert into the fertile lands of India...... Hindu law grows and is not injected, So any arbitrary imposition of rules from the legislature is repugnant to the religious and legal notion of the Hindus. ....For every radical change of Hindu law plebiscite should be taken."	

PATNA—*contd.*

1. That uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification	For codification
WITNESSES—*contd.*	
(13) Bihar Provincial Hindu Sabha, represented by Rai Saheb Sri Narain Arora, Chairman, Patna Municipality. Mr. Nal Kishore Prasad, No. 1, Advocate Patna High Court , Raja Sir Roghu Nandan Prasad Singh. Kt. of Monghyr, Rai Bahadur Shyam Nandan Sahay, C.I.E., Dr. N. P. Tripathi, Mr. Lachmi Kanta Jha, Advocate, Patna High Court, Mr. R. P. Jharudhar, Advocate, Patna High Court, Pandit Ganes Sharma, Advocate, Patna High Court, Mahant Jnan Prosad of Ranchi, Mr. Aditya Narayan Lal, Advocate, Patna High Court, Mr. Hari Shankar Chowdhury from Darbhanga, stated: "The moment you codify Hindu law, its progress would be arrested, because you cannot go to the source. Our belief is that the Hindu law is of divine origin. Ours is not king-made law. We shall be governed by king-made law if there is codification............In spite of so many inroads during Mahamedan period we were left to our personal law assisted by our commentator. With the advent of British rule, assurance was given by the Government that our personal law will not be touched. ....Laws in different schools of Hindu law should remain as they are." Dr. Tripathi, Secretary of the Sabha, said: "There has been agitation and opposition throughout the whole country. If the Code is accepted as law, there would be revolution in the country."	
(14) Bihar Prantya Sanatan Dharma Sabha, represented by their President, Mr. Lachmi Kant Jha, adopted the same view as the Provincial Hindu Sabha as above.	
(15) All India Jadab Mahasabha, represented by Mr. Nabadwip Chandra Ghose, Advocate, Patna High Court, said: "I represent All India Jadab Mahasabha. We have got organisations throughout all the provinces. Rao Saheb Suchit Singh is the President of the District Sabha, Delhi. The whole Jadab population is 143 lacs. We are not in favour of codification of Hindu law. We are having our laws from the Rishis. We will have the code from the Rishis. All the schools of Hindu law should remain."	
(16) Mr. Harinandan Singh, M.L.A., Advocate, Patna High Court, said : "We do not want codification. The law has worked satisfactorily with competent Judges and therefore we do not want the codification." He points out that the Civil Justice Committee's report on Dr. Gour's Codification of Hindu Law formed the subject of questions in the Legislative Assembly. The reply of the Government was that the codification would arrest the growth of Hindu law.	

PATNA—*contd.*

1. That a uniform Code of Hindu Law is neither possible nor desirable—*contd.*

Against codification	For codification
WINESSES—*contd.*	
(17) Mr. Brahma Deo Narain, Advocate, Patna High Court, said that the draft Code in order to be conducive to the benefit for the Society must reflect its opinion. The means adopted should be by adult franchise or something akin to it.	
(18) Mr. Gopeswar Pandya, M.L.A. (Provincial) Shahabad (South) said :— "I am opposed to code because it is against fundamental principles of Hinduism. There can be no uniform legislation for Hindu society as Hinduism there is no uniformity in nature—by this I mean the very creation vary with Trigunas. There can be no uniform legislation. Each Varna should have the same law."	
Written Statements	
(19) District Judge of Purnea.	
(20) District Judge, Darbhanga.	
(21) District and Sessions Judge, Patna.	
(22) District Judge, Gaya.	
(23) District Judge, Muzaffarpur.	
(24) District Judge, Monghyr.	
(25) Darbhanga Bar. Association.	
(26) Bar Association, Purnea.	
(27) Bar Association, Monghyr.	
(28) Motihari Bar Association.	
(29) Bar Association Purulia.	
(30) Gaya Bar Association.	
(31) Bar Association, Kathihar.	
(32) Rai Bahadur N. K. Singh, Additional District Magistrate, Gaya.	

My Conclusions

From the examination of witnesses and of the opinions set forth in the written memorandum of all the Provinces in India the only conclusion I can come to is that the majority of Hindus incline to the view that the codification of Hindu law is neither possible nor desirable. As will appear from the extracts given above a variety of reasons have been given as to why it is not possible to have an uniform Code of Hindu law. Some have said that Hindu law is revealed law—the law of Smritis and Srutis and the commentators who were also sages of great repute and cannot be altered by the Government of India, others have invoked the proclamation made by Her Majesty Queen Victoria in 1853 that there should be no interference with the personal law of the Hindus as it is based on religion, others have stressed the undesirability of placing the Bill before the Central Legislative Assembly as the Bill has introduced changes of a revolutionary character which has the effect of sweeping away the law laid down by the Smritis and of destroying the Dharma (rules) which are based on the high ideals befitting Hindu culture and character—which ideals have served as inspiration to the world for centuries, others emphasised the undesirability of codification of Hindu law on the ground that it will arrest the growth and development of Hindu law, others have maintained that there is no necessity of codification as people are satisfied with the Hindu law as administered by High Courts in India as well as by the Judicial Committee of the Privy Council according to the Srutis, the Smritis and commentaries giving rise to different schools of Hindu law, others have said that having regard to the different schools of Hindu law prevailing in India it would be impossible to attain uniformity and there is no point in having a Hindu Code unless there is uniformity in the laws prevalent in different provinces of India, others maintain that any change in the fundamentals of Hindu law cannot be determined by the Central Legislature which is not of a representative character as there has been no election for a large number of years and the present Central Legislature has outgrown its time and that no changes should be made whether in regard to property rights or in the matter of social legislation unless a plebiscite is taken of the whole of Hindu India and there should be no interference with the personal law of the Hindus unless the question of amendment and codification of Hindu law is one of the issues on which elections in future are held and the Central Legislature is formed of members elected on this issue. Objections have also been raised on the ground that at least one lakh of Hindu soldiers are in fighting services and their views require to be ascertained as the changes proposed affect them seriously. Others maintain that the legislation at the Centre cannot affect agricultural property which is in the Provincial list and there will be one law of inheritance for non-agricultural property and another for agricultural property and there will be great complications in the administration of law if the Provinces do not follow the lines of the Central legislation. Another reason against codification is that this is not the opportune time for codification as people's minds are engrossed in the war and they have got no time to think of the effect of the changes on their domestic life and properties. It is difficult to deny the cogency of many of the reasons against codification of Hindu law. From a conspectus of the evidence and written opinions given in the whole of India through which the Committee had to tour it will appear that the majority are against codification of Hindu law and it is only a *microscopic minority* that favour codification. Four of the Judges of the Calcutta High Court (Hon'ble Justices R. C. Mitter, Mookerjee, Biswas and Sen) have in view of the public importance of the changes embodied in the Code affecting 240 millions of Hindus in British India have sent their opinion against codification (*see* page 298, Vol. I) and thirty retired District and Subordinate Judges of Bengal have similarly sent their opinion on the same lines (*see* page 301, Vol. I), and I propose here to quote from the opinion of the learned Judges of the High Court of Bengal as they express my own view of the matter. The learned Judges of the High Court say :—

"At the outset, we must express our serious doubts as to the wisdom, necessity or feasibility of enacting a comprehensive Code of Hindu law. The draft Code does not profess to be exhaustive, but it definitely aims at being a stage in the preparation of a complete Code, and that makes it necessary to consider how far such codification is proper or desirable.

Most of the rules of Hindu law are now well settled and well understood, and a Code is not, therefore, called for at all. There is, in fact, no general demand for it, neither those who are affected by Hindu law, nor those who have to administer it have felt the necessity of a Code.

We are not aware that the whole of the personal law of any community in any country has been, or been sought to be, embodied in a Code, and it is our conviction that all communities in India, like the Moslems, for instance, will stoutly resist any attempt to foist a Code of personal law upon them. We see no reason why the Hindus should be treated differently".

"One of the objects of the Committee is stated to be that of evolving a uniform Code of Hindu law which will apply to all Hindus by 'blending the most progressive elements in the various schools of law which prevail in different parts of the country'. It seems to us, however, that apart from anything else, as matters stand, uniformity is an impossible ideal. The Committee themselves recognized that all the topics of Hindu law do not come within the sphere of central legislation and, in particular, that of devolution of agricultural land, which, by the Constitution Act, is exclusively a Provincial subject. And it may be noted in this connexion that agricultural land constitutes by far the bulk of immoveable properties in Bengal nay, in the whole of India; and as has already been judicially held the expression 'agricultural land' embraces within its scope a large variety of interests, from that of the proprietor of the highest grade to that of the actual tiller of the soil. The Committee hope that the Provinces will move on the lines prescribed in the Code. We doubt, however, whether this hope will be realized. It is too much to expect that all the Provinces would adopt all the provisions of the Central Act."

"But after all, is uniformity such a desideratum that it must be purchased at any price? Diversities of usage are inevitable among the very large number of Hindus who inhabit this vast sub-continent, and it was for nothing that the Hindu law givers recognized the paramount authority of local usages and customs. Why then, it may be asked, must the Hindus of any particular locality be necessarily called upon to forswear their own distinctive traits and traditions in the interests of a theoretical symmetry? And why, further, for the sake of attaining an ideal uniformity, must the law be cut off from its ancient moorings? Hindu law, divorced from the Smritis and Nibandhas, would be a contradiction in terms." My experience as an Advocate of the Calcutta High Court for nearly 29 years and as a Judge of the Calcutta High Court for nearly 11 years and again as an Advocate of the Patna High Court for the last eight years makes me take the same view as the learned Judges of the Calcutta High Court have taken and having regard to the opinion of the vast majority of orthodox Hindu India as indicated above my conclusion is that the idea of enacting a comprehensive Code of Hindu law should be dropped. In the long and interesting tour throughout India we have seen the reaction of different shades of people to the suggested changes. In conning the evidence I have kept in view the antecedents of the persons who have given evidence, their position in society both individually and socially I have balanced quality and not quantity on both sides of the opinion, and as will appear from the evidence extracts from which are given above that the majority of Hindus representative of the wealth, the talent and the public spirit of this great country are against the codification of Hindu law as in the proposed Hindu Code. I have examined with meticulous care and deep consideration the effect of the evidence taken and I shall show presently the evidence of a few of the leading men of the country who favour codification, and set off against their opinion the views of larger number of leading men and women whose views are against the Bill, although in my view it is the opinion of Hindu masses that counts.

On the side amongst leading men in India Rt. Hon'ble Srinivas Sastri of the Servants of India Society says that codification and uniformity of Hindu law throughout India is possible and desirable, on the other hand Pundit Madan Mohan Malaviya, the staunch nationalist Hindu leader says that codifications of Hindu law is not desirable nor possible. Right Hon'ble Sir Tej Bahadur Sapru, K.C.S.I., gives it as his personal opinion in favour of the Hindu Code adding at the same time that it will be difficult to carry codification into effect in the midst of orthodox Hindu opposition. Sir Nripendranath Sarkar, Kt., K.C.S.I. while favouring the Code adds that it is subject to this provided the majority of Hindus supports it. Amongst the Zemindars of Bengal, the Maharajadhiraj of Burdwan, premier noblemen of Bengal, is against codification so is Maharaja of Cossimbazar, another wealthy landlord. The Maharani of Nator, a lady coming from the true aristocratic family of Bengal—the Maharaja of Nator being the descendant of Rani Bhabani who reigned as the Queen of Bengal in pre-British days and who has numerous tenantry in Bengal says that she had come out of the Parda for the first time and appears before the members of the Committee to protest against the present Code as it will have the effect if passed of destroying Hindu joint family, Hindu culture and the high ideals which permeate Hindu family life. Lady Nripendranath Sarkar, wife of Sir Nripendranath Sarkar, formerly Law Member, Viceroy's Executive Council, presided over a meeting of Hindu Womens' Association protesting against the Hindu Code. Lady Ranu Mookerjee, wife of Sir Birendranath Mookerjee, Kt., Sheriff of Calcutta and daughter-in-law of late Sir Rajendranath Mookerjee, expressed her opinion against codification. The representation which was sent by Hindu Womens' Association by Mrs. S. R. Chatterjee, Secretary to the Association, protesting against the Code shows that the meeting had the support amongst others of Lady Mookerjee (wife of the late Sir Ashutosh Mookerjee, Judge of the High Court, Vice-Chancellor for years of the Calcutta University and one of the greatest educationist India has produced), of Lady Brahmachari (wife of Sir Upendranath Brahmachari, a very distinguished and wealthy doctor of Calcutta). The All India Hindu Mahasabha of which the present President is Dr. Shyama Prosad Mookerjee renowned for his public spirit speaks in no uncertain terms against codification as will appear from the evidence of Mr. N. C. Chatterjee, Bar-at-law, and states that the Code aims at sapping the very foundation of Hindu culture and character.

In Behar the Hon'ble Maharaja Dhiraj Kameshar Singh, K.C.S.I., now a Member of the Council of State, the premier nobleman of Behar, although he did not give his evidence told me on two occasions in Patna that he was opposed to codification of Hindu law.

The tenseness of the feelings against Hindu Code in almost all the Provinces, is manifest from the reception the Committee received from the public when they arrived there and the anti-Hindu Code meetings. In

Allahabad the Committee was met with black flags at the Allahabad Station by 200 students headed amongst others by Mr. Katju, son of Dr. Kailas Nath Katju, ex-Judicial Member of the United Provinces Government. In the Patna while the Committee was recording evidence in the Sinha Library there was black flag demonstration. In Calcutta as soon as the Committee arrived there was black flag demonstration by a very large number of Hindu men and women. In Nagpur the demonstrators against the Code carried black flags and I was besieged in my car with black flags while going to the Mount Hotel, Nagpur, where I was to stay. In Amritsar station there was black flag demonstration against the Code and some women with black flags entered our compartment. At the Lahore Station there were similar demonstrations but the Police managed to send them away outside the station. It is only fair to state that a number of ladies greeted me with white flags at the Falleti's Hotel, Lahore, where I was staying knowing that I was to preside over the Hindu Law Committee meeting in the absence of the Chairman. In Madras where we were recording evidence anti-Hindu Code meetings were being carried on. In Patna there was an anti-Hindu Code week.

From what I have said above it will be manifest that Hindu ladies and gentlemen representing the wealth, the talent and the public spirit of this vast country are *almost* unanimous in condemning the Hindu Code.

It has also been said and rightly said that any reform in Hindu law of property and of social rights and obligations can only be achieved in the course of evolution and not by thrusting revolutionary changes when the majority do not want it. It is true everything is changing but legislation should not effect those changes until by a process of gradual and complete evolution the old shibboleths are shed. No Government should ride roughshod over public opinion and far less in a case where the changes affect the law based on Hindu religion. The Judicial Committee of the Privy Council observed in the case of Gokulchand *vs* Hukumchand, 48 I.A. 162, 2 Lahore 40: "They conceive it to be of the highest importance that no variations or uncertainties should be introduced into the established and widely recognised laws, which govern an ancient Eastern civilisation, and least of all, in matters affecting family rights and duties connected with ancestral customs and religious convictions".

Srimati Anurupa Debi, one of the best modern novelists in Bengal whose writings are largely read in every Hindu home and whose books are staged on the Cinema houses in Calcutta and Bengal for educative effect and who is also a social worker is strongly against codification of Hindu law. She and her sister Srimati Pratirupa Debi, another novelist of repute have presided over largely attended meetings in Calcutta and the whole of Bengal protesting against the Hindu Code.

The Hon'ble Mr. Justice Chandra Sekhar Ayyar, Judge, Madras High Court—page 355, Volume II of the Written Statements—also says: "Legislation of this kind ought to be undertaken only when there is a compelling demand for the alteration of the law from a very large section of the community sought to be affected thereby. Such demand is absent. A few legislators or social reformers, however, eminent they may be in their particular sphere of work, do not represent the bulk of Hindu opinion...... In such matters legislation must not be forced from without; it must be the result of pressure from within".

Pandit Nilakanta Das, M.A., M.L.A. (Central), Cuttack, is also against codification—page 308, Vol. I. The feeling is strong against codification and it has been put very strongly in the statement of Mr. R. N. Pusalkar, B.A., LL.B., Professor of Law, Kolhapur. Hindu society is suffering direct and indirect humiliation at the hands of the social reformer and the legislator. The present Hindu Code is the culminating point by which in case it becomes a law, our Hindu Society will die a juristic death.

My colleague in the Committee, Professor J. R. Gharpure has said—page 66, Vol. I—"Needless to say, therefore, that in a society like the Indo-Aryan with a long continued past, with its several stages of evolution affecting a vast number of human beings, it is only a steady course of evolution taking with it the popular mind and force which are calculated to give it a lasting place and not legislation which howsoever quick in its results is bound to be equally quick and short-lived in its life".

In a recent Behar Provincial Lawyers' Conference held at Darbhanga on the 31st of March 1945, Mr. Hem Chandra Mitra, a distinguished Advocate of Chapra enjoying inter-provincial reputation who presided said: "The codification of Hindu law is the burning question of the day. The majority of the people are raising their voice of protest against it. The intensity of feeling is manifested by the black flag demonstrations with which members of the Committee are being greeted on their arrival at different parts of the country. The provisions for making sons and daughters simultaneous heirs, giving absolute estate to women, validating sagotra marriage, and giving permission for divorce are being viewed with great alarm........... It is not proper to codify the Hindu law at the present juncture in the teeth of serious opposition and especially when the best representatives of the people cannot take part in the debates".

Question may be asked why I along with the other three members of the Hindu Law Committee drafted the Code which affected the fundamental principles of Hindu law. The answer is that when we conceived of the possibility of an uniform Code of Hindu law we little knew that there would be such strong opposition to the reforms suggested. The people who have supported the Code are generally the men and women of the Brâhmo Samaj, Arya Samaj and the Hindu Women's Conference and certain Atma Raksha Samity who are bent on reform but they form a very small portion of Hindu community. In answer to a question by me to Mr. S. C. Mukerjee, retired I.C.S., who represented the views of the Brahmo Samaj he stated that the members of the Brahmo Samaj in Bengal consisted of about 750 members in a Hindu population of at least two and half crores and the Samaj undoubtedly supports codification. Similarly if all the Reform Associations in India are taken into account, who bless the Code, their number may be described as very small. Would it be right in these circumstances in the teeth of vehement opposition as evidenced by the written and oral evidence given to recommend that the codification of Hindu law should be adopted by the Legislature, I think not.

When I entered into this work of codification along with my colleagues I had the warning of Mr. Mayne, the distinguished Barrister who was a genius in the field of Hindu law before us. Mr. Mayne in his preface to his first edition of Hindu law in July 1878 pointed out: "The age of miracles has passed and I can hardly expect to see a Code of Hindu law which shall satisfy the trader and the agriculturist, the Punjabi and the Bengali, the Pundits of Benares and Rameswaram of Amritsar and Poona. But I can easily imagine a very beautiful and specious Code which should produce much more dissatisfaction and expense than the law as at present administered". And that is exactly what has happened as would appear from a scrutiny of the evidence taken during our tour in India and this brings me to consider the trend of the opinion of the Mahamahopadhyas who have spoken on behalf of the Brahman Sabhas in Bengal and other Barnasram Sanghas in other portions of India. Mahamahopadhya Doorga Charan Sankatirtha, Mahamahopadhya Chandi Charan Smritibhushan, Mahamahopadhya Ananta Sastri have all spoken against the Code, so have the Mahamahopadhyayas examined in the Punjab. Mahamahopadhya Kane, Advocate, Bombay, in the Conference of the National Council of Women in India held in November 1943 said: "The objections with reference to the course proposed in the Bill were many and serious. If passed into law at once these proposals are likely to cause friction and quarrels amongst the mass of people who are illiterate. The country is not ripe for such a sudden change. There must be an educative propaganda for years. There is no reason to suppose that the great mass of people want the change". *See* report p 72.

Amongst the Muths in all parts of India strong opposition to the Code has been expressed. Sri Sri Sankaracharya of Kumbakonam in Madras has entered an emphatic protest against the proposed codification of Hindu law, as tending to disrupt Hindu society and religion.

After consulting public opinion throughout India I am definitely of opinion that it is not possible to have an uniform Code for Hindu India. I do not agree with those who hold that law should introduce these reforms although public opinion is opposed to them. Those who favour the view that the Hindu Code should have an educative effect and should accustom men and women of Hindu India to reconcile themselves to these changes which may be hard at first to bear but may be agreeable afterwards overlook the danger of interfering with the Hindu law which I have already said is based on ancient custom and religion.

Having regard to my opinion that no codification of Hindu law is either possible or desirable I should have thought that it is not necessary to go into the detail of the changes suggested by the Code, still as opinion has been taken on the specific reforms suggested by the Code I proceed to give my conclusions on the same. The points which have given rise to very great controversy in the different provinces fall under the following heads :—

(1) Whether daughter, married or unmarried, should be simultaneous heir with the son?

(2) Whether widow should get absolute estate and not merely life estate in property inherited from her husband as at present ?

(3) Whether the Mitakshara doctrine of sons taking a share in ancestral property on birth equal to that of their father should be abolished in Mitakshara jurisdictions and whether the doctrine of survivorship in co-parcenary property should go?

(4) Whether the rule which obtains in Bombay that the husband's consent to adoption by the widow is to be presumed in the absence of prohibition should be applied to all the provinces, namely, even where husband's consent written or oral is necessary before the adoption can be made by the widow?

(5) Whether monogamy should be made a rule of law?

(6) Whether divorce should be permitted in sacramental marriages?

I now proceed to examine the evidence on each of these heads and then summarise my conclusions on each head respectively.

1. (a) Whether daughter, married or unmarried, should be simultaneous heir with the son?

(b) Whether unmarried daughter should get a one-fourth share in the inheritance?

BENGAL

Written evidence on simultaneous heirship.

Against	For
(1) Mrs. S. R. Chatterjee, Honorary Secretary, Hindu Women's Association, Calcutta, stated: "In this connexion it would be instructive to take note of the effect of this provision of the Muhammadan law on Muhammadan society. By reasons of inheritance of females, semi-strangers such as the daughter's husband and others become co-owners of the family property leading to its fragmentation, very often preceded by feuds, riots and litigation. The economic depression in Muhammadan society was mainly due to this collective inheritance, prior to its being checked by the Waqf Act. My Association shudders to think what the fate of Hindu society will be if the same rules were applied. Already the suspicion is gaining ground that one of the objects of the proposed legislation is to weaken the Hindu community by striking at its economic backbone, as is done in other ways".	(1) The Joint Committee of Women's Organisations, Bengal, supports provisions relating to inheritance by women and they do not approve of the following opposition to the provisions of the Code:— (1) the proposed rules of inheritance will result in sub-division and fragmentation of property, and (2) that Hindu religion is opposed to inheritance of women. They recommend that since sons carry on the family, provisions allowing sons the right to buy out daughters where the property to be inherited is a dwelling house, be made.
(2) The Maharaja of Burdwan said: "In a mainly agricultural country with a Hindu population of over 70 per cent. where fragmentation of agricultural holdings due to the already existing laws of succession is agitating the minds of agricultural economists and when consolidation of such holdings is the need of the day it is curious that the authors of the draft Code have invented and introduced in the drafs new elements to inherit property of deceased Hindus.... Inclusion of foreign elements in a family property has generally accelerated disruption of family resulting in economic decline. Data on such points may be collected from Civil Courts, Settlement Records and other appropriate channels".	(2) Prof. K. P. Chattopadhyaya of Calcutta University.
(3) Maharaja S. C. Nandy of Cossimbazar, President, All-India Anti-Hindu Code Conference and Committee, said: "The Hindu Code introduces so-called rights of women without taking into view the corresponding obligations. Hence it will sow the seed of disruption of the Hindu joint family, and family life in general. It will also lead to undesirable fragmentation of Hindu properties. The family system is an excellent social security plan. If family is destroyed no alternative scheme is offered to fill up the gap".	(3) Mr. Nirmal Chandra Pal, M.A., B.L., Lecturer, Dacca University, said: "Being an advocate of equal legal rights of men and women I am in favour not only of making sons and daughters simultaneous heirs but of giving them equal shares. Natural justice and affection demand that it should be so. Those who oppose daughter's right of inheritance are obsessed with ideas of joint family and think that the interest of the family would suffer if the daughter takes away a portion of father's property to another family. This argument would have some force if it were found that the brothers continued the father's joint family even after his death and did not break it up".
(4) P. N. Singh Roy, Esq., O.B.E., Honorary Secretary, British Indian Association, Calcutta, said that room for fragmentation of property should not be widened by making daughter absolute sharer of the property. It will accelerate the fragmentation of properties, invite complications by the provision of women taking the property absolutely, to create family disruption by the introduction of strangers as sharers of the property and impair domestic peace by accentuating the legal rights of simultaneous heirs. The Code will increase litigation and dismember properties for mere fun. It will thus deal a death blow to the property-owning community, although the agitation in favour of such a Code is carried on by persons who are mostly not owners of properties".	(4) Mr. Sachin Chaudhury, Mr. K. K. Basu, and Mr. B. Das, Barristers-at-Law, Mr. Nirmal Chandra Sen and Mr. Rabindranath Chakravarti, Advocates, Mr. Rabindra Chandra Kar, Solicitor and certain others, said: "In respect of the provisions of simultaneous succession above-named, it is not appreciated why there should be any disparity in the proportionate shares inherited by male and female. Surely an equal proportion between sons and daughters should have been a simpler provision and more in keeping with the policy of the Code".

BENGAL—*contd.*

Written evidence on simultaneous heirship—*contd.*

Against

(5)

The Indian Association, Calcutta : "It should be remembered that such a position was never given to a daughter in any school of Hindu law.........If the daughter takes a share of her parent's property along with her brother and again gets a share of the property of her husband, her position becomes better than that of her brother and the disruption or even ruin of the parent's property may be caused by such a provision when she goes into a stranger's family or is surrounded by strangers. As mother or grand-mother she is entitled to a share on partition. She might also possess personal property or stridhan. Hence the suggested distribution is opposed".

(6)

Suniti Kumar Chattreji, M.A., D.Litt., F.R.A.S.B., Professor, Calcutta University, observes: "This brings in quite a new principle in Hindu succession and many have characterised it as revolutionary, and as a definite move towards Islamising a vital Hindu social usage..........It will of course force partition and as a corollary bring about widespread fragmentation of the family property".

(7)

Marwari Chamber of Commerce, Calcutta, observes : "The position of the girls instead of improving is likely to deteriorate. The vast majority of the population in India has no property and they have to live from hand to mouth. At present they consider it to be their religious duty to give away their daughters in marriage and for this purpose they consider no sacrifice to be too great in order to find out a suitable match. If over and above this, the daughters are given shares in the properties, the prospective bridegroom will also consider this aspect of the case and the marriage of the daughters will be a bigger problem than at present, if this idea also gets into the head of the bridegrooms and their families as to what property the girls will get by way of inheritance".

(8)

Dr. P. C. Biswas, M.Sc., Ph.D., Lecturer, Calcutta University, Anthropology Department.

(9)

Raja Bahadur Manilal Singh Roy, C.I.E. of Chakdighi, said : "I find that it will accelerate the fragmentation of properties, invite complications by the provision of women taking the property absolutely, create family disruption by introduction of strangers as sharers of the property and impair domestice peace by the accentuating the legal rights of simultaneous heirs".

(10)

Prof. S. N. Das Gupta, C.I.E., I.E.S. (Retd.), observes: "The principle of inheritance according to the Smritis is based upon the principle of the capacity of any person who offers pinda to the deceased. Daughters

For

(5)

Basantlal Murelall, Calcutta Secretary, Nawjiwan Sangha and ex-President, All-India Marwari Agarwal Mahasabha, said "Regarding the provision of intestate succession in the draft Code providing the daughter with a share, whether married or unmarried and giving full rights and absolute estates to widows not only remove the arbitrary discriminations against daughters but also will serve as the first step towards the uplift of women as a whole".

Against

should therefore be as a rule excluded from inheritance so long as there are sons........In modern times one has to spend for the education and maintenance of a daughter even more than one has to spend for educating and maintaining a son .... Under the circumstances it will be unjust and unfair that in addition to all these expenses the daughter should carry to her new family a half share. ....If a house is left by the father the brothers can no longer live in it; for the house has to be sold up for paying the shares of the sisters. .... The division of shares will lead to fragmentation of land which is already the cause of much evil.......... Again in cases where there are more daughters than sons the master of the family may have completely ruined himself in educating and marrying the daughters and in the end may have very little left for his minor children".

(11)

B. N. Roy Chowdhury of Santoh, says: "Separate provision for daughters will divide existing properties into too many shares and give rise to uneconomic fragmentations of estates. A stranger in the shape of son-in-law is brought in which will lead to litigation".

(12)

Bengal Provincial Hindu Mahasabha.

(13)

All-India Anti-Hindu Code Committee observes. "The inclusion of daughter in the group of simultaneous heirs with half a share of the son is not found in any school of Hindu law..........calculating in terms of rights and shares the girls are bound to suffer much more than the supposed benefit to them".

(14)

Prativa Mitra (President), A.-I. W.C., Mymensing Branch, while supporting the general principles underlying the Bill says: "We think if provisions are made therein for umarried daughters for their maintenance and marriage expenses as also for widowed daughters as a charge upon paternal properties it may serve to meet the necessities of the situation. The provisions for leaving absolute rights to all daughters to their paternal properties both movable and immovable would disrupt the social and economic structure of the Hindu joint family system, and the policy of keeping the property in the male line which has worked well so long in the interest of the Bengali Hindu society. Any attempt to the contrary would create constant ill-feelings and litigations amongst brothers and sisters".

(15)

Maharani Devi, Secretary, Sriniketan Mahila Samaj, Manbhum, while supporting the Bills suggests some amendments on the question of daughter's share. Amongst the middle class Hindus there is a custom of

For

(6)

Mr. B. P. Himatsingha, B.A., B.L., Temple Chambers, Calcutta.

(7)

Lady Abala Bose, Secretary, Nari Siksha Samiti, Vidasagar Bani Bhaban, and Mahila Silpa Bhawan Calcutta, writes: "It is no use trying to talk of joint family system now-a-days as it is slowly crumbling to pieces. As regards division of paternal properties, who does not know that as soon as sons are earning independently they leave the paternal house and property which soon becomes a ruin if a widowed daughter is not there ?"

(8)

Burdwan District Mahila Atmaraksha Samity.

BENGAL—*contd.*

Written evidence on simultaneous heirship—*contd.*

Against

giving dowry to the daughters when they are given in marriage. This already vicious custom would be made more harmful if the daughters are entitled to have shares in their father's property.

(16)
Mahila Atma Raksha Samiti, Tamluk, Midnapore (Uma Nag—Secretary) said : "Hindu women's rights to property should be amended and the position of the un-married daughter should be protected making clear position for her maintenance and marriage expenses to be met out of her paternal estate as a charge on the same."

(17)
S. G. Mookerjee, Esq., Subordinate Judge, Rajshahi.

(18)
B. K. Basu, Esq., I.C.S., District Judge, Mymensing.

(19)
S. N. Guha Ray, Esq., I.C.S., District Judge, Nadia.

(20)
Rai N. N. Sen Gupta Bahadur, District Judge, Burdwan.

(21)
H. K. Mukherji, Subordinate Judge, Burdwan.

(22)
K. S. Bhattacharji, Munsiff, Burdwan.

(23)
S. C. Ghosh Subordinate Judge, Birbhum suggests that it would be better if provisions be made only for indigent daughters.

(24)
S. K. Haldar, Esq., I.C.S., District Judge, Bakarganj.

(25)
S. K. Sen, Esq., I.C.S., District Judge, Tipperah.

(26)
R. S. Trivedi, Esq., I.C.S., District Judge, Murshidabad

(27)
Mr. Bankim Chandra Mukherji, Advocate, High Court, Member, Bengal Legislative Council.

(28)
Rai Bahadur Bijay Bihari Mukherji, Advocate, High Court, Retired—Director of Land Records and Survey, Bengal.

(29)
Satish Kumar Datta, Government Pleader.

For

(9)
Indira Devi Chaudhuri, President, Santiniketan Mahila Samity, supports the principle of giving the daughter a fair share in her father's property and giving women absolute ownership.

(10)
Mrs. Sellammai Natarajan, Kalighat, Calcutta says : "Women should have absolute rights of property. To begin with, half a share is a compromise which can be adopted. The risk of division of property should not be much as it is there whereever the number of children is large—be the boys or girls".

(11)
S. Sen, Esq., I.C.S., District Judge, Howrah.

(12)
The District Judge, 24-Perganas.

(13)
H. Banerjee, Esq., I.C.S., District Judge, Faridpur.

(14)
A. S. Ray, Esq., I.C.S. District Judge, Birbhum.

(15)
P. Dinda, Bar-at-Law, Midnapur.

(16)
Prokash Chandra Bhose, Esq., Advocate, High Court, Calcutta.

(17)
Kshetra Mohan Sarkar, M.A., B.L., Advocate, High Court.

(18)
Ambika Charan Ray, Advocate, High Court, Calcutta.

Against

(30)

Mr. Sanat Kumar Rai Chowdhury.

(31)

High Court Bar Association, Calcutta.

(32)

Howrah Bar Association.

(33)

Incorporated Law Society of Calcutta.

(34)

Bar Library, Natore, writes that it will cause needless fragmentation of Hindu holding without any compensatory relief to anybody in true sense.

(35)

Babu Atul Chandra Rakshit, Secretary, Dacca Bar-Association, said: "We have already observed that the love and affection with predominance of religion govern a Hindu family. Daughters though they are not the legal heirs under the present Hindu law get some share of the assets of a Hindu father in more than one way. Politically too, we oppose such excessive fragmentation of the properties of Hindus. This will weaken our position in relation to others and will gradually sap our financial vitality."

(36)

Bar Association, Giridih.

(37)

Bar Association, Khulna, observes : "The simultaneous inheritance by sons and daughters will lead to unnecessary disintegration and alienation of property. The daughters being married outside the family will not be able to manage and enjoy the property to the same extent as the sons will, with the result that they will transfer their interest according to their sweet will".

(38)

The Burdwan Bar Association, Burdwan.

(39)

Bengal and Assam Lawyers' Association, Alipore.

(40)

The Rajshahi Bar Association.

(41)

The Tamluk Bar Association.

(42)

The Bar Association, Midnapore.

(43)

Pleaders' Association, Tamluk.

For

(19)

Purnachandra Dutt, President, Bar-Association, Kalna.

Written evidence on simultaneous heirship—*contd.*

Against	For
(44) Netrakona Bar Association.	
(45) Bar Association, Garhbeta.	
(46) Barisal Bar Association.	
(47) The Mukhtears' Bar Association, Burdwan.	
(48) Mr. Nalini Kumar Mukherji, Advocate.	
(49) Gopal Chandra Biswas, Pleader, Barisal.	
(50) N. L. Bhattacharaya, Advocate, Calcutta.	
(51) Subodh Ch. Sen, Pleader, Midnapore.	
(52) Babu Jyotirindranath Sen, Pleader, Comilla.	
(53) Bar Association, Bagherhat.	
(54) P. N. Bagchi, Pleader, Kushtia.	
(55) Sudhangshu Bhusan Chatterji, Government Pleader, Kalna.	
(56) Satis Chandra Mukherji, Advocate, Hooghly.	
(57) Taraknath Basu, Pleader, Chinsura.	
(58) All-India Dharma Sangh, Basant Kumar Chatterji, and Chotay Lal Kanoria.	
(59) Saraswat Brahman Association, Bengal.	
(60) Mahamahopadhya Chundidas Nyayatarkatirtha, President, Bangiya Brahaman Sabha, says according to Hindu Shastras, daughters do not get a share if there is a son. Rigveda III, 31, 2.	
(61) Bangiya Barnashram Swarajya Sangh.	

Written evidence on simultaneous heirship—*contd.*

Against

(61-A)

Sri Anantakrishna Sastri, Calcutta.

(62)

Shrijiva Nayayatirtha, Principal, Sanskrit College, Bhatpara.

(63)

Sri H. M. Banerji, President, United Mission.

(64)

Manmathaath Tarkatirtha, Principal, Mulajore Sanskrit College, said that inheritance of daughters simultaneous with sons have no basis in the Hindu Sastra or Hindu custom.

(65)

Swami Yogananda Bharati, Birbhum District.

(66)

Rajendramudkkil, Pleader, Secretary, Dharma Sabha, Mymensing.

(67)

P. Neogi, Principal, Maharaja Manindra College, Calcutta.

(68)

Himangshu Bhushan Chakravarti, Malda.

(69)

The Commissioners of the Budge Budge Municipality, Rai Bahadur, H. L. Halder, Chairman.

(70)

A. C. Samadder, Kalighat, Calcutta.

(71)

Hem Chandra Ghatak, Hony. Magistrate, Bogra.

(72)

Mr. P. C. Chatterji, M.A., B.L., Manager, Tarakeswar Estate.

(73)

Mr. Hari Krishna Jhajharia, Calcutta.

(74)

Rao Bahadur S. K. Sahana, Vidyavinode, Bankura.

(75)

Abinash Chandra Sarkar, Advocate, Jessore, and six others.

For

(20)

S. R. Das, Esq., 118, Kalighat Road, Calcutta.

(21)

Mr. T. S. Rau, Janapur.

(22)

Mr. T. C. Datta, Headmaster, Janjira School, Faridpur.

(23)

Mr. Sudhamani Banerji, Pleader, Midnapur.

(24)

Mr. P. Panchanan Ray, Mymensing.

(25)

Dr. S. Datta, Principal Rajshahi College, said: "In my opinion equity is no doubt desirable but only as far as it is consistent with the preservation of property and with the maintenance of harmonious relations between the participants the absence of which is sure to give rise to unnecessary complications and litigations resulting in endless miseries.

(26)

The Chairman, Baidyabati Municipality, Serampur, said: "Inheritance by daughters, of half share of brother approved provided that there will be no right to reside in the same house".

BENGAL—*contd.*

Written evidence on simultaneous heirship—*contd.*

Against

(76)

Amritalal Mukherji, Headmaster, Sammilani Instn., Jessore.

(77)

Prof. Ramasai Karmakar, Bankura College.

(78)

Amarendra Bose, B.A., Lincoln's Instn., Calcutta.

(79)

T. N. Chandhini, Midnapur.

(80)

Dr. Sisir K. Dutt, Hony. Magistrate, Bogra.

(81)

The Editor, "The Korotoa", Bogra.

(82)

Arun K. Sen, Esq., M.A., Vice-Principal, Vidyasagar College, Birbhum.

(83)

Sj. Ananda Charan Mukherji, President, Patuakhai subdivisional Hindu Mahasabha.

(84)

Rai Sahib Rajendra Ch. Banerji, Senior Professor of Physics, Bankura Christian College.

(85)

Charu Chandra Paul, Hony Secretary, Ghee Merchants' Association, Calcutta.

(86)

The Commissioners of the Jiaganj-Azimganj Municipality.

(87)

The Headmaster, Municipal High School, Burdwan.

(88)

The Chairman, Baruipur Municipality.

(89)

Nirad Kumar Munshi of Rajshahi.

(90)

Adhyapak Pt. Radhasyam Shastri of Krishapur, Ramchandra Chatuspathi.

(91)

S. Chatterji, President, Union Board, Matiari, Nadia.

(92)

Dr. Ashutosh Banerji, Bhatpara, 24-Parganas.

For

(27)

Mr. Anuttam Sen, Vice-Chairman, Berhampur Municipality.

(28)

A representative Committee of the Brahmo Samaj.

BENGAL—*contd.*

Written evidence on simultaneous heirship—*contd.*

Against	For
(93) Girdhar Sharma Chaturvedi.	
(94) Prabha Ch. Santosh, Ballyganj.	
(95) The Manager, Jambani Raj Estate, Chilkigarh, Midnapur.	
(96) The Commissioners of the Berhampur Municipality.	
(97) Manishinath Basu Saraswati, M.A., B.L., M.R.A.S.	
(98) Rai Surendra Narayan Sinha Bahadur, Chairman, Murshidabad District Board.	
(99) Some members of the teaching staff of Krishna Chandra College, Hetampur, Birbhum.	
(100) D. N. Guha, M.A., B.L., Barabazar, Calcutta.	
(101) Hindu community of Demra Town, Pabna.	
(102) Sasikumar Maitra, Naogaon, Rajshahi.	
(103) Harendra K. Das, President, Barsul Union Board, Burdwan.	
(104) Ahindranath De Chowdhury, Ranaghat.	
(105) Rai Sahib Syamapada Bhattacharya, Retd. Dy. Collector, Jiaganj, Murshidabad.	
(106) Sushil Ranjan Sen, Secreatary, Hari Sava, Burdwan.	
(107) Srishchandra Das Gupta, Lecturer, Rajshahi College.	
(108) Maharajadhiraj of Darbhanga, President, Bengal Landholders' Association.	

BENGAL—*concld.*

Writte evidence on simultaneous heirship—*concld.*

Against

(109)

Srimathi Anurupa Devi said: "While Coming here, I received by post a letter from some girl students of the Cacutta Univeristy. The letter speaks for itself. In that letter the writers have expressed against the changes in the law of inheritance. That is, they do not want to share their paternal properties with their brothers".

(110)

Bebode Behari Das, Secretary, Unregistered Medical Association, Bagherhat, Khulna.

(111)

Mahamahopadhyaya Pt. Bireswar Tarkatirtha, Burdwan.

(112)

The Hon'ble Judges of the Calcutta High Court (R. C. Mitter, B. K. Mukherjee, C. C. Biswas, A. N. Sen).

(113)

30 Retired District Judges and Subordinate Judges of Bengal.

For

ASSAM

Against

(1)

P. L. Shome, Esq., Advocate General, Assam.

(2)

B. Sen, Additional District Judge, Sylhet.

(3)

Sub-Judge, Sylhet.

(4)

Rai Bahadur Kalicharan Sen, Gauhati.

(5)

The District Bar Association, Sylhet.

(6)

The Bar Association, Hailakandi.

(7)

The Bar Association, Silatar.

(8)

The Bar Association, Barpeta.

(9)

The Bar Association, Mangaldai.

(10)

The Secretary, Bar Association, Dubri.

(11)

C. Ganguli, Secretary, Tezpur Bar Association.

(12)

atindranath Chatterji, M.A., B.L., Secretary, Hindu Dhana Sabha, Dhubri.

(13)

r. Jogesh Chandra Biswas, Tarapur, Silchar.

For

(1)

G. S. Guha, Esq., M.A., B.L., Barrister-at-law, Deputy Commissioner, Darang.

(2)

Dharmadhar Dutt, Government Pleader, Sylhet.

(3)

Rai Bahadur S. Doweraah, Government Pleader, Dibrugarh.

(4)

K. R. Barman, Government Pleader, Gauhati.

(5)

The Secretary, Nowgung Bar Association.

(6)

The Secretary, Goalpara District Association, Dhubri.

BOMBAY

Oral evidence on simultaneous heirship.

Against

(1)

Mr. S. Y. Abhyankar, Advocate, Bombay High Court, said.: "The strict rule is that if there is a son, he should be the only heir. But if simultaneous heirship is to be adopted, you may add the unmarried daughter and she may take half the share of a son".

(2)

Mahamahopadyaya P. V. V. Kane, on behalf of the Dharma Nirnaya Mandal, Lonavala, said that the married daughters should be excluded.

(3)

Messrs. B. H. Joshi and P.V. Davre, Advocates of Poona, are against giving any share to the daughter.

(4)

Mr. K. B. Gajendragadker of Satara, objected to the daughter's share because it would lead to fragmentation. If however the daughter-in-law is excluded, the daughter should get one-fourth share, whether married or unmarried.

(5)

Rani Laxmibai Rajwade said that the daughter should get 1/4th share after providing for her marriage and education expenses and also after paying all the debts.

(6)

Messrs. N. V. Bhonde and V. J. Kinikar appearing on behalf of the Poona Bar Association, approved of giving the unmarried daughter only a share equal to that of the son.

(7)

Mr. Pusalkar of Kolhapur, representing Brahman Sabha, suggested 14th share for married and unmarried daughters.

(8)

Mrs. Janakibai Joshi on behalf of the All-India Hindu Women's Conference said : "A daughter should not be a simultaneous heir along with the son. A wife is an agnate of her husband and not of her father. A daughter should not take a share in the property of her father as his agnate. An unmarried daughter may take a share in her father's property but she should be divested of it on her marriage".

(9)

Mr. L. K. Bhave representing the Maharashtra Brahman Sabha said that a daughter should not be a simultaneous heir.

(10)

Mr. L. K. S. Safai representing Sri Shukla Maharastra Brahman Sabha, Poona, said the daughter should not be included as a simultaneous heir.

(11)

Mr. D. V. Joshi opposed to the introduction of simultaneous heirship.

For

(1)

Mrs. Sarojini Mehtar on behalf of the Bhagini Samaj, Bombay, said that sons and daughters should get an equal share in their father's as well as their mother's property.

(2)

Rao Bahadur P. C. Divanji approved of the provision made in the Code and said that a provision should be inserted in the Code whereby a daughter should get money value if the value of property be less than Rs. 10,000.

(3)

Miss Ranade and Miss Tarabai said that a daughter's share should be cut down to one-fourth as a daughter also gets a share in her husbands property. In addition an unmarried daughter should get her marriage and education expenses. They gave evidence as representatives of Maharastra Mahila Mandal.

(4)

Mrs. Yamutai Kirloskar representing the All-India Maharashtra Mahila Mandal, recommended for the half share for the daughter.

(5)

Mr. Chapekar representing the Dharma Nirnaya Mandal, conceded that an unmarried daughter might perhaps be given half a share as provided in the Code.

(6)

Lady Vidyagauri Neelkanth, President of the Gujarat Social Reform Association, accepted the provisions of the Code.

(7)

Mr. Patwari, Advocate, Ahmedabad.

(8)

Mr. K. M. Munshi while approving of giving a share to the daughter said: "I give the daughter a share in the sense of not giving her a right to claim partition. The daughter may claim the money value of her share".

(9)

Dr. Mrs. Malini Bai B. Sukthankar and other representatives of the National Council of Women in India, said that a son and a daughter should take equal shares both in the father's and mother's property.

DELHI

Oral evidence on simultaneous heirship—*contd.*

Against

(1)

Messrs. Gyan Prakash Mithal and Prabhu Dayal Sharma, representing the Sanatan Dharma Rakshini Sabha, Meerut, opposed for the provision made for daughters, married or unmarried.

(2)

Acharya Chandra Sekhara Sastri said: "It is my view that the Muslims have suffered by fragmentation of property. If a share is given to the daughter it will lead to fragmentation. The unmarried daughter should get a share for marriage expenses. To an indigent married daughter not more than half the share of a son may be given."

(3)

Rai Bahadur Harischandra on behalf of the Delhi Provincial Hindu Mahasabha objected to the daughter being a simultaneous heir.

(4)

Pandit Nilkantha Das, M.L.A., said : "In the presence of a son, I would not give a share to the daughter but if there is only a widowed daughter-in-law and a daughter I would not object to the property being divided between them".

For

(1)

Mr. Chand Karan Sarda, President, Rajputana Provincial Hindu Sabha, said that an unmarried daughter should get equal share with the son but a married daughter should get no share.

(2)

Mr. K. Sanatanam said if he had been given free hand in the matter he would have allotted equal share for sons and daughters. He approved of the provision made in the Code.

ALLAHABAD

(1)

Mr. Bajranglal Chand Gotriya objected to the simultaneous heirship of the daughter and would not give any share to the married or even to the unmarried daughter.

(2)

The All-India Sanathana Dharma Mahasabha represented by Mahamahopadhyaya Chinnaswami Sastri and others said: "Daughters who do not perform shraddhas should not be given any share in the inheritance. Giving them a share would lead to further poverty and foment quarrels between brothers and sisters".

(3)

Srimathi Vidyavathi Devi, Secretary, Arya Mahila Hitakarini Mahaparishad, said : "The man who offer the pindas should take the heritage. Otherwise there will be no inducement for the proper performance of the shraddha and the salvation of the deceased may be jeopardised. The daughter should not be a simultaneous heir with the son as she goes into another gotra and performs no ceremonies for her father or his ancestors. An unmarried daughter should not get any share. It is the duty of her brothers to maintain her and perform her marriage".

(4)

Srimathi Sundari Bai, M.A., B.T., Headmistress of the Arya Mahila Vidyalaya and Editor of the "Arya Mahila", a monthly magazine, said : "After marriage, the daughter goes into another family and has no right to perform her father's shradh and consequently she cannot be given any rights of inheritance. Giving the daughter a share might affect her chastity".

(1)

Mr. K. R. R. Sastri, M.L., Reader, Allahabad University, agreed to the daughter being a simultaneous heir with the son. Unmarried daughter should also get marriage expenses. Son's marriage and upanayan expenses should also be met from the common fund.

Oral evidence on simultaneous heirship—*contd.*

Against

For

(5)

Pandit Subodh Chandra Lahiri on behalf of the Kashi Pandit Samaj opposed to the daughter being made a simultaneous heir. There will be a great disruption in the family property if the daughter is given a share. There will be a strong inducement to loafers to entice our women who have no sufficient protection".

(6)

Pandit Keshav Misra, Secretary of the Dukh Dardh Nibaran Sangh and editor of "Sri Vijaya", a Hindi bi-weekly.

(7)

Pandit Sri Sadayatan Pandya, President of the U.P. Dharma Sangh, said : "We object to the daughter being given a share as it will lead to fragmentation, quarrels between brothers and sisters and deterioration in the economic position of Hindus, particularly in zamindaris. By virtue of the Caste Disabilities Act, if a daughter became a convert to Islam for purposes of marriage, her share will be entirely lost to the the family. It will not be right to make the daughter who has no duties to discharge in regard to her father (sraddha, etc.) a simultaneous heir with the son who has such duties to discharge. In giving the daughter a share, the basic principle of sagotra succession is destroyed".

(8)

The All India Agarwal Hindu Mahasabha, U.P., represented by Bishambarnath Sabha, U.P.

PATNA

(1)

Sri Sitaramiya Brojendra Prasad, M.A., B.L., Retired Subordinate Judge, said : "I prefer the unmarried daughter's marriage expenses being borne by the father and am against giving her a share. Both married and unmarried daughters should not be made a simultaneous heir with the son........The father should not be absolved from the responsibility of celebrating his daughter's marriage".

(2)

Mr. Awath Bihari Jha, Advocate, said : "I object to the principle of the daughter's simultaneous heirship with the son. The Smritis, no doubt provide for a one-fourth share to an unmarried daughter, but this provision was intended only to meet her marriage expenses. It would therefore be sufficient to provide for the marriage expenses of the unmarried daughter and no share need be given to her".

(3)

Mr. Panch Ratan Lal, President, Hindu Committee, Sheghati, Gaya District.

(4)

Mr. Naval Kishore Prasad (No. II), Advocate, Patna High Court, said: "I do not like the provision for the simultaneous heirship of the daughter with the

Against

For

son. The introduction into the family of a son-in-law, who is a stranger will cause disputes. Primogeniture, if it could only be adopted, would be very desirable as it will prevent disruption of the family property, but I fear that it is an ideal which can never be realized in practice".

(5)

Sri Awad Behari Saran, Government Pleader, Shahabad, said : "I am against making the daughter a simultaneous heir with the son. I would not give a share even to an unmarried daughter. The property should go to a person who is capable of conferring spiritual benefit on the deceased. The one-fourth share referred to by Yajnavalkya is merely in lieu of maintenance and marriage expenses. One fourth share may be given to unmarried daughter for a limited period".

(6)

Mr. G. P. Das, Government Pleader and Public Prosecutor, Orissa, in the Patna High Court.

(7)

Mr. Nitai Chandra Ghosh, Advoacte, Patna.

(8)

Mr. Rai Tribhavan Nath Sahai, Advocate, representing the Central Bihari Association.

(9)

Mr. Kapildeo Narain Lal, Advocate, Vice-President Hindu Sabha, said : "I am against making the daughter, whether married or unmarried, a simultaneous heir with the son. This is repugnant to Hindu sentiment, will lead to fragmentation of property, and will ultimately result in the disruption of many families."

(10)

Mr. Satish Chandra Misra, Advocate, while opposing to the simultaneous heirship of the daughter with the son, said that the unmarried daughter and the married but indigent daughter should both be provided maintenance on a liberal scale.

(11)

Messrs. Chandrasekhar Prosad Sinha and Atulendu Gupta, Pleaders, appearing on behalf of the Dinajpur Bar Association, opposed to the simultaneous heirship of daughters with the brothers and said that the father, if he so desires, could make gifts or donations in favour of the daughter.

(12)

Rai Sahib Sri Narain Arora, representing the Provincial Hindu Mahasabha, is opposed to the provision

(13)

Mr. Navadwip Chandra Ghosh, Advocate, Patna High Court.

PATNA—*concld.*

Oral evidence on simultaneous heirship—*contd.*

Against	For
(14) Mr. Hari Nandan Singh, M. L. A., Advocate, Patna High Court.	
(15) Sri Brahmo Deo Narayan, Advocate, said : "Giving a share to the daughter will lead to disintegration of the family property."	
(16) Mr. Mukteswar Pandya, M.L.A.	

CALCUTTA

Against	For
(1) Messrs. Phanindra Nath Brahma, Rai Bahadur Bijay Bihari Mukherji and seven others representing the Bengal and Assam Lawyers' Association.	(1) Mr. A. C. Gupta, Advocate, High Court.
(2) Mahamahopadhyaya Chandidas Nyaya Tarkatirtha, and five others representing the Bangiya Varnasharama Swarajya Sangh and the Bangiya Brahman Sabha.	(2) Dr. Ananta Prasad Banerji, Principal, Sanskrit College, Calcutta, objected to a share being given to a married daughter but preferred a share being given to the unmarried daughter equal to one-half the share of the son in the father's property.
(3) Messrs. B. K. Chatterji and Chotaylal Kanoria, representing the Dharam Sangh.	(3) Mrs. Ela Mitra and others representing the All India Women's Conference and Joint Committee o Women's Organisations.
(4) Messrs. Hiralal Chakravarty and others on behalf of the Calcutta High Court Bar Association.	(4) Mahamahopadhyaya Anantakrishna Sastri said : "According to my reading of Yajnavalkya's text, a daughter whether married or unmarried is entitled to a one-fourth share in addition to expenses incidental to marriage. Although this may be the Smriti rule, giving a share to the daughter would, on the whole, be to her detriment because the presents which she now gets will cease."
(5) Babu Tarak Chandra Das, Lecturer in Social Anthropology, Calcutta Univeristy.	(5) Sir N. N. Sircar, K.C.S.I., expressed his opinion against giving a share to married daughter but stated that unmarried daughter must get one-half share.
(6) The Maharani of Natore, and certain other purdanashin ladies said : "So far as the unmarried daughter is concerned, only maintenance and marriage expenses need provided for. She should not be given a share. No share of the property should be given either to the married or to the widowed daughter. The father can make a will if necessary. To give a share to the daughter by law would create discord".	(6) Messrs. S. C. Mukherjee (I.C.S. Retd.) S. C. Roy, S. M. Bose and D. Mitra, representing the Sadharan Brahmo Samaj strongly supported the idea of giving sons and daughters equal shares in property.
(7) Pandit Akshay Kumar Shastri and Sarat Kamal Nyayathirtha, representing the Tarakeshwar Dharma Sabha said : "This is against the Rig Veda".	
(8) Srimathi Anurupa Debi and Lady Nanibala Brahmachari said : "We are gainst this, whether the daughter is married or unmarried. As to the unmarried daughter her maintenance and marriage expenses may be made a satutory charge on the property of the father. If a share is given to her, it will create discord in the family".	

CALCUTTA—*contd.*

Oral evidence on simultaneous heirship—*concld.*

Against	For
(9) Pandit Narayana Chandra Smrititirtha and Pandit Srijiva Nyayatirtha of the Calcutta Sanskrit College and the Bhatpara Sanskrit College.	
(10) Mr. Rishindra Nath Sarkar.	
(11) Mr. P. L. Shome, Advocate-General of Assam.	
(12) Messrs. Satinath Roy, J. M. Dutt, R. Chowdhury and others representing the Indian Association.	
(13) Mrs. S. R. Chatterji, Lady Ranu Mukherji and others representing the Hindu Women's Association.	
(14) Mr. Kumar Purandra Nagore Tagore, Bar-at-law representing the All-India Anti-Hindu Code Committee.	
(15) Mr. N. C. Chatterjee, Mr. Sanat Kumar Ray Chaudhury and Mr. Debendranath Mukherjee representing the Bengal Hindu Mahasabha.	
(16) The Marwari Association, The Marwari Chamber of Commerce, and the All-India Marwari Federation.	
(17) The Maharajah of Cossimbazar and Mr. B. N. Roy Chaudhury of Santosh.	
MADRAS	
(1) Diwan Bahadur R. V. Krishna Iyer, C.I.E., said that a share to the daughter, whether married or unmarried would be detrimental to her.	(1) The Right Hon'ble V. S. Srinivasa Sastri.
(2) Sri Thethiyur Subrahmanya Sastriar, President, Madura Adwaita Sabha observes that the one-fourth share given by the Smritis to unmarried daughters is only for marriage expenses.	(2) Rao Bahadur K. V. Krishnaswamy Ayyar.
(3) Mr. K. S. Champakesa Iyengar, Advocate, representing the Vanamamalai Mutt said that daughters should have no share whether she is married or unmarried.	(3) Sir Vepa Ramesam, Retired High Court Judge, said in favour of both married and unmarried daughters having one-fourth share in father's property, to start with.
	(4) Mr. S. Muthia Mudaliar, C.I.E.
	(5) Mr. K. Kuttikrishna Menon, Government Pleader, gave opinion that daughter should get equal share with son.

Oral evidence on simultaneous heirship—*contd.*

Against

(4)

Mr. V. Appa, Rao, Advocate, Vizagapatam, appearing for the *Ad Hoc* Committee and Bar Association, Vizagapatam.

(5)

Mr. T. V. R. Appa Rao, Advocate of Narsapur.

(6)

Messrs. K. S. Mehta and M. L. Sharma representing the Sowcars' Association and the Marwari Association.

(7)

Mr. N. Srinivasa Sastri of Papanaam.

(8)

Mrs. Kamalammal of the Asthika Madar Sangham.

(9)

Messrs. S. Mahalinga Iyer and others on behalf of His Holiness the Sankaracharya of the Kanchi Kamakoti Peeth.

(10)

Rao Sahib N. Natesa Iyer, Advocate, Madura.

(11)

Mrs. Pattammal of the Asthika Madar Sangham, Madras, said : "It might look advantageous at first sight but it is bound to create a lot of difficulties later on, especially in the middle class and poor families. It may work well in rich families. On the whole I would give no share to the daughter, whether married or unmarried"

(12)

Diwan Bahadur Govindoss Chaturbhujdoss.

For

(6)

Mr. S. Guruswami, Editor, "New Viduthalai", said that daughters should get equal shares with son and Mrs. Guruswami supported the same view.

(7)

Mr. P. V. Rajamannar, Advocate General, Madras, and Judge-Designate, Madras High Court, said: "I am not impressed by the fragmentation argument. Collectivisation is the remedy for it, not the exclusion of daughter. Generally I support the Code in this regard.

(8)

The Women's Indian Association, Madras, represented by Mrs. Ambujammal and Mrs. S. Rajan.

(9)

Mr. S. Ramanathan, M. A., B. L.

(10)

Mr. P. V. Sundaravaradulu, Advocate, Chittoor, says that daughters may be given one-fourth share of a son except in agricultural land and the residential house.

(11)

Sri Rao Bahadur V. V. Ramaswamy, Chairman, Municipal Council, Virudunagar, said that daughters should have equal shares with sons.

(12)

Mr. P. Balasurbramania Mudaliar, Editor, "Sunday Observer".

(13)

Srimathi A. M. Janaki, Advocate, High Court, said daughters should have equal shares with sons.

(14)

Miss E. T. Chokkammal, Advocate, High Court, said daughters should have equal shares with sons.

(15)

Mr. V. N. Srinivasa Rao, M.A., B.L.

(16)

Sri V. Venkatarama Sastri representing nine organisations.

(17)

The South Indian Budhist Association, said equal rights should be given to the daughters.

MADRAS—*concld.*

Oral evidence on simultaneous heirship—*contd.*

Against	For
	(18) Mr. G. V. Subba Rao, President of the Andhra Swarajya Party, Bezwada.
	(19) Mr. P. C. Reddy of the V. R. College, Nellore, is in favour of giving daughters equal shares with sons.
	(20) Mr. G. Krishnamurthi, Subordinate Judge, said that whatever share be given to to the daughter it should be a right by birth.
	(21) Mr. B. Sitarama Rao, Advocate.
	(22) Sir P. S. Sivaswami Iyer said that daughters should have equal share with sons.
	(23) Diwan Bahadur K. S. Ramaswami Sastri said that the daughters should have half the share of son but not in dwelling house.
	(24) Sri K. Balasubramania Iyer, Advocate.

NAGPUR

Against	For
(1) Dr. D. W. Kathalay. Advocate, supported by Dr. B. S. Moonje and Mr. B. G. Khaparde.	(1) The National Council of Women in India, represented by Mrs. Ramabai Thambe and three other ladies.
(2) Diwan Bahadur K. V. Brahma, Advocate, disapproved the daughter being given a share.	(2) Mrs. Natesha Dravid and Miss P. Pradhan, M.A., LL.B., Advocate, Members of the All India Women's Conference (Nagpur Branch).
(3) Mr. B. D. Kathalay, Advocate, said that the daughter, whether married or unmarried, should not be a simultaneous heir with the son.	(3) Mr. G. T. Bride, Advocate, says that one-fourth share may be given to unmarried daughter instead of one-half of the son's share.
(4) The Jain Seva Mandal, Nagpur, and the Jain Research Institute, Central Provinces and Berar, said that daughter, whether married or unmarried, should not be simultaneous heir with the son. An unmarried daughter should be given only maintenance. A widowed daughter should also be given maintenance if she is destitute.	(4) Mr. A. R. Kulkarni, Advocate, while approving of a share for the daughter said that she need not be given her marriage expenses in addition to her half share.

NAGPUR—*contd.*

Oral evidence on simultaneous heirship—*contd.*

Against	For
(5) Mr. I. S. Pawate, Sub-Judge, Baramati, Poona, said : "I am against the married daughter being given a share. I have no objection to the unmarried daughter taking one-fourth share of a son. But this be divested on her marriage".	
(6) Dr. K. L. Daftri, D. Litt., said that a married daughter should not have a share. An un-married daughter may have one-fourth share of a son without additional marriage expenses.	
(7) Diwan Bahadur, Sita Charan Dube, Advocate, said that daughter should not be a simultaneous heir with the son. Marriage expenses may be provided for unmarried daughter or one-fourth of a son's share may be given.	
(8) Mr. P. B. Gole and three others including Miss Vimal Thakkar representing the Varnashrama Swarajya Sangh of Akola, opposed to giving any share to the daughter simultaneously with the son.	
(9) Mr. N. V. Machewa, Organizer of Reformed Marriage Institutions, Nagpur, supported Mr. K. L. Daftri's views as above.	
(10) Mr. Kasturchand Agarwal, LL.B., Pleader, Seoni, Chindwara.	
(11) Mr. S. N. Kherdekar, B.A., M.L., Advocate.	
(12) A women's deputation consisting of Lady Pravatibai Chitnavis and others opposed to giving any share to the daughters but said some provision should be made for the unmarried daughters.	
(13) The Hon'ble Justice Sir M. B. Niyogi of the Nagpur High Court, said that a one-fourth share be given to an an unmarried daughter.	
(14) The Hindu Mahasabha deputation led by Dr. B. S. Moonje and Dr. Kathalay opposed to giving any share to the daughters simultaneously with the son.	
LAHORE	
(1) Lala Jamna Das and Pandit Jagat Ram Sastri, Principal of the Sanathan Sanskrit College, Hoshiarpur, representing the Sri Sanathan Dharma Sabha.	(1) The All-India Jat Pat Torak Mandalo, represented by Mr. Sant Ram and others.
(2) The Sanathan Dharma Prathinidhi Mahasabha, Rawalpindi.	(2) Mr. C. L. Anand, Principal, Law College, Lahore.

LAHORE—*contd.*

Oral evidence on simultaneous heirship—*contd.*

Against

(3)

Mr. Narottam Singh Bindra, Advocate; said that share for daughter will break up joint family and hence objectionable. Share may be given in personal and movable properties.

(4)

Rai Bahadur Badri Das, Mr. Jivan Lal Kapur, Bar-at-law, and Mr. Harnam Singh, Advocate, representing the Bar Association of the Lahore High Court, said : "The prevailing opinion here is against it. If the daughter should take as a simultaneous heir with the son, reciprocity would be wanting. If the daughter dies after marriage, her father's son, *i.e.*, her brother, appears nowhere in the list of heirs. But if the son dies, she is given a high place as his sister in the order of succession. In the Punjab, the unmarried daughter in an average family is in a much more favourable position than she would be if she were merely allotted a share. On her marriage she generally gets a big sum by way of dowry which is much larger than the value of a half-share. I would exclude the unmarried daughter on another ground also, *viz.*, that it would lead to excessive fragmentation, there is little economic stability. In the cities of the Punjab, most people live on trade and the son contributes his share of effort to the family business even from his minority and has, therefore, a claim on the property acquired by the family, which the daughter has not".

(5)

Dr. Prabhu Datt Shastri, Ph.D., Dr. Parasu Ram Sharma, Mahamahopadyaya Pandit Parameshwaranand and Pandit Raghunath Datta Shastri, Vidyalankar representatives of the Sanatana Dharma Pratinidhi Sabha of the Punjab said : "We are against it. The daughter has been provided for in the Smiriti. She is an heir in the absence of the wife and the son. The mother's stridhana comes to her as her exclusive property. After marriage, she is cut off entirely from the family of her birth and goes into another family. The inclusion of the daughter as a simultaneous heir will lead to fragmentation, increase litigation, and diminish family affection. The inclusion of the daughter is due to a European outlook on life and ignores the spiritual basis of married life among the Hindus, which has nothing in common with Europe".

(6)

Malik Arjan Das, General Secretary, Punjab Provincial Hindu Sabha, said : "I am opposed to the daughter being made a simultaneous heir with the son and would prefer to maintain the present position. In the Punjab, banking and agriculture will be adversely affected if the daughters are made sharers. Agricultural property will become fragmented into uneconomic holdings. Family businesses will deteriorate and banking business will be ruined. It will bring about discord between brother and sister. The dowry given to the daughter almost invariably represents her share".

For

(3)

Miss Nirmal Anand, M.A., Lecturer in Geography, Kinnaird College for Women, claiming herself as representative of 90 per cent. of the educated women of Lahore said that the daughter should get the same share as the son. There is no reason why her share should be restricted to one-half.

(4)

Women's delegation representing the women of the Punjab—Mrs. Dunichand, M.L.A. and nine others.

LAHORE—*contd.*

Oral evidence on simultaneous heirship—*contd.*

Against

(7)

Mahamahopadhyaya Girdhar Sharma Chaturvedi and three others representing the Sanathan Dharam Vidyapith of Lahore opposed to the simultaneous heirship of the daughter and said that she should be given only her maintenance and marriage expenses.

(8)

Sardar Sahib Iqbal Singh, Advocate, Lahore High Court, said : "I am against the daughter succeeding simultaneously with the son. The son is with the father and helps him in cultivation. The daughter does not so assist him, but goes into another family and the only result of giving her half a share as proposed will be fragmentations of properties leading to total ruin".

(9)

Mr. S. Nihal Singh, Advocate, President of the All-India Hindu Women's Protection Society; said : "I am against giving the daughter a share simultaneously with the son. This proposal will divide Hindu society and therefore I would retain the *status quo* especially as the women appear to be satified with the Deshmukh Act of 1937. There is again no logic in giving only a half-share to the daughter. If you want sex equality why should you not give a full share?"

(10)

The Hindu ladies of Lahore appearing in very large numbers gave evidence through Srimathi Panditha Krishna Devi who said: "We are against the daughter being given a share along with the son, as it is against our Shastras. The daughter receives gifts and presents throughout her life from her brother. There is no necessity, therefore, to give her a share.

(11)

The Hindu ladies of Amritsar represented by Sardarni Kamalawati Misra. Vice-President of the All-India Hindu Women's Conference opposed to the simultaneous heirship of the daughter.

(12)

Srimathi Chandrakumari Gupta, widow of the late Seth Jagatbandhuji, Patron of the Hindu Mohila Samrakshan Sabha and of the Arya Samaj and founder of the Institute for blind girls in Amritsar, Srimathi Santi Devi and a number of other women.

(13)

Pandit Nandlal Sharma of Rawalpindi, representing Sri Sanatan Dharma Pratinidhi Mahasabha, Dharam Sangh, Rawalpindi and N. W. F. P. Brahman Sabha.

(14)

Mr. Puranchand, Advocate, representing the Dharma Sangh, Lahore.

For

(5)

Mr. C. L. Mathur, Reader, Law College, Lahore, approved of the daughter being given half a share, but any dowry already given to her should be deducted from the value of her share. Jewellery or cash given to her should be her absolute property and suggested that the shares of the daughter and the son in movable property be made equal.

(6)

Miss Subrul, Principal, Fateh Chand College for Women: said "The unmarried daughter, one who is not fit for marriage, or one who has made up her mind not to marry should get the same share as the son and she should also be subject to the same obligations as the son. A married daughter should not have any share in the property. If an unmarried daughter marries, her share should go back to her brothers."

(7)

Mrs. Lekhwati Jain of Amritsar, representing the Jain Mahila Samiti, said : "I would give no share to the daughter. This is a very objectionable proposal. I would however give half a share to a daughter who is labouring under an incapacity unfitting her for marriage or who has attained 25 years of age without marrying. In the latter case, if she marries, her share should go back to the family. The provision made in the Code will lead to discord among brothers and sisters, and I see no advantage in it.

LAHORE—*concld.*

Oral evidence on simultaneous heirship—*concld.*

Against	For
(15) Pandit Mehr Chand Sastri of the Sanatana Dharam Sanskrit College, Bannu, N. W. F. P.	
(16) Pandit Rurilal Sharma, and three others representing the Sanatan Dharma Prachar Sabha.	
(17) Mr. Kesho Ram, Advocate, President of the Bar Association, Amritsar, and also of the Durgiana Temple Committee	
(18) Moolraj Kapoor Kshatriya, Upamantri, Dharma Sangh, Punjab Prantik.	
(19) Brahmachari Gopi Krishan Vyas, representative and delegate of all the Sanskrit student, of Sitala Mandir in Lahore.	
(20) Pandit Brahmu Ram, General Secretary, Kangra Sudhar Sabha.	

MY CONCLUSIONS

The majority of the Hindus strongly takes exception to the simultaneous heirship of daughters with the sons on the ground that it would lead to excessive fragmentation of property and on the inclusion of foreign elements in family property leading to the disruption of the family and resulting in economic decline. Others have objected on the ground of its being a revolutionary change and as a definite move towards islamising a vital Hindu usage. Others have said that it will create ill-feeling between brothers and sisters. Professor S. N. Das Gupta, C.I.E., I.E.S., (Retd.), formerly Principal, Sanskrit College, observes that the principle of inheritance according to the Smritis is based upon the principle of the capacity of any person who offer pindas to the deceased. And daughters should therefore be as a rule excluded from inheritance as long as there are sons. It is difficult to deny the cogency of these objections. My conclusion therefore is that daughters should not be made simultaneous heirs with the sons, as very large majority of Hindu opinion is against the rule and there is no justification in the Smriti text in support of the proposed change.

With regard to the unmarried daughters it has been said by a few Pundits that there is support of giving one-fourth share in the inheritance along with the sons and the verse "Duttamansam Turiyakam—Viramitrodaya p. 588" is quoted in support of this view. See the evidence of Mahamahopadyaya Ananta Krishna Sastri—page 34. But other Pundits do not agree with him and point out rightly that if simultaneous heirship was intended then it would have been so mentioned in the Smritis.

Regarding the simultaneous heirship of daughters the four learned Judges of the Calcutta High Court rightly point out that they consider this change to be a change of a revolutionary character which of all the proposals on the Code has perhaps evoked the strongest and most widely expressed protest. They further point out that one serious objection to this provision is that it will lead to the further fragmentation of property and the other is the traditional dislike in the Hindu minds of allowing strangers to the family to come and share the inheritance. Each of these objections in the opinion of the learned judges is a valid and well founded objection. As a matter of fact in the Punjab where I was presiding over the meeting of this Committee, some 500 women entered the Commercial Museum Hall, Lahore, where the meeting was held said with folded hands "Do not bring son-in-law into the family and ruin our business." This splitting up of estates is a great economic evil, merely because the risk of such splitting up cannot be avoided where there is a multiplicity of son it does not follow that evil should be further enhanced by the introduction of a larger number of simultaneous heirs.

For these and other reasons the Committee will not be justified in introducing this provision in favour of the daughters.

3. Whether widows shall get absolute estate and not merely *life estate in inherited property* as at present.

BENGAL

Written evidence on absolute estate for widows.

Against	For
(1) P. N. Singh Roy, E.qs, O.B.E., Hon. Secretary, British Indian Association, Calcutta, said: "Under the draft Hindu Code, the woman will take the property absolutely as if she were a male heir. That changes the basic principle of succession. The limitation on women's estate was not a recognition of the inferiority of women but an acceptance of the principle that the opportunities for the exploitation of the woman's estate should be narrowed down in the interests of women themselves and of the property concerned. My Committee does not favour that a female will take the property absolutely and that she will become a fresh stock of descent.	(1) Mr. Nirmal Ch. Pal, M.A., B.L. Lecturer, Dacca University, said: "From the practical point of view also it will benefit the Hindu Society because it will stop a considerable number of law suits which crop up due to the limited right of Hindu women."
(2) The Indian Association, Calcutta.	(2) Mr. Sachin Chaudhury, Mr. K.K. Basu, and Mr. B. Das, Barristers-at-law, Mr. Nirmal Cn. Sen and Mr. Rabindranath Chakravarti, Advocates, Mr. Rabindrachandra Kar, Solicitor and certain others said: "The proposed abolition of the "Widow's estate is certainly a progressive step putting an end as it does, to an artificial and anomalous conception that leads to endless disputes."
(3) Suniti Kumar Chatterji, D. Litt., (Lond.), Professor, Calcutta University, said: "I am not in favour of giving women the same rights over property as men...... I apprehend that attempts may be made by unscrupulous persons to take advantage of the rights proposed to be given to women, and undesirable elements will be encouraged to break the economic solidarity as well as basis of a great many Hindu families."	
(4) Mrs. S. R. Chatterjee, Hony. Secretary, Hindu Women's Association, Calcutta, said: "The proposed absolute rights of women would be liable to similar objections. The rule in Hindu law regarding "women's estate as it is called is not due to any idea	

Written evidence on absolute estate for widows—*contd.*

Against

of the inferiority of women, but is calculated to secure to the family the ultimate return of the property after its fullest enjoyment by the female owner and to prevent it from passing on to strangers."

(5)

Marwari Chamber of Commerce, Calcutta, observes "So far as the present Hindu law is concerned it gives the women a limited estate. Hindu Code proposes to give the women absolute estate. The stage of advancement of womenfolk is such that if they are given full ownership rights the property is likely to be wasted and the present restriction regarding alienation by women is made in order to preserve the property to the family".

(6)

All-India Anti-Hindu Code Committee said "Absolute estate of women is not recognised in any school of law.........The provision the draft Code for giving absolute estate for all the family heirs is neither warranted by the shastras nor by the social constitution.

(7)

Mr. Bankim Chandra Mukherji, Advocate High Court M.L.C. (Bengal) said : "With reference to cl. 13 as to property inherited by a woman there is a strong objection to give her unrestricted power of sale and the objection should be considered to be substantial in some of the instances."

(8)

S. K. Haldar, Esq., I.C.S., District Judge, Bakarganj.

(9)

Rai Bahadur Bijay Bihari Mukherji, Advocate, High Court, Retd. Director of Land Records and Survey, Bengal.

(10)

Satish Kumar Datta, Government Pleader.

(11)

Bengal and Assam Lawyers Association, Alipore.

(12)

The Burdwan Bar Association, Burdwan.

(13)

The Rajshahi Bar Association.

(14)

The Tamluk Bar Association.

(15)

The Bar Association, Midnapore.

(16)

Pleaders' Association, Tamluk.

(17)

Secretary, Bar Association, Garhbeta.

For

(3)

S. K. Sen, Esq., I.C.S. District. Judge Tippera.

(4)

A. S. Ray, Esq., I.C.S., District Judge Birbhum.

(5)

Kshetra Mohan Sarkar, Advocate, High Court, Calcutta.

(6)

Ambika Charan Ray, Advocate, High Court

(7)

S. R. Das, Esq., 118, Kalighat Road.

Evidence—

(8)

Mr. Atul Chandra Gupta, Advocate, High Court

BENGAL—*concld.*

Written evidence on absolute estate for widows—*concld.*

Against	For
(18) Barisal Bar Association.	
(19) The Muktears' Bar Association, Burdwan.	
(20) Nalini Kumar Mukherjee, Advocate.	
(21) Gopal Chandra Biswas, Pleader, Barisal.	
(22) Secretary, Bar Association, Bagherhat.	
(23) Satish Chandra Mukherji, Advocate, Hooghly.	
(24) Deva Prasanna Mukherji, Advocate and Zemindar.	
(25) All India Dharam Sangh, Basanta Kumar Chatterji and Chotay Lal Kanoria.	
(26) Mahamahopadhya Chandidas Nyayatarkatirtha, President Bangiya Brahman Sabha.	
(27) Bangiya Varnashram Swarajya Sangh—Satyendra Nath Sen, Esq., M.A., Secretary.	
(28) Bangiya Bidwant Sammalena, Faridpur.	
(29) Sri Anantakrishna Sastri.	
(30) Srijiva Nyayatirtha, Principal, Sanskrit College, Bhatpara.	
(31) Rajendramudkkil, Pleader, Secretary, Dharma Sabha, Mymensingh.	
(32) Manmathanath Tarkatirtha, Principal, Mulajore Sanskrit College, said: "Absolute right of women to property is prohibited in the vedas, upanishads, suritis and Nibandhas".	
(33) Maharajadhirajah of Darbhangha, President, Bengal Landholders' Association.	

BOMBAY

Oral evidence on absolute estate for widows—

Against

(1)

Mahamahopadyaya P. V. Kane on behalf of the Dharma Nirnaya Mandal, Lonavala, said : "Women may be given an absolute estate in all property except property inherited from the husband and even here they should have a limited estate only if there are heirs of the husband within the 'compact series'. This was the view which the Mandal adopted after a long discussion at which the Swami presided. The general sentiment of the meeting was against the clause in the Code as it stood."

(2)

Mr. Manubhai C. Pandia, Secretary of the Varnashram Swarajya Sangha, Bombay, said : 'We have no objection to greater rights being given to Hindu women where the texts sanction them. We do not agree to their being given an absolute estate, because it is against Manu's text about the perpetual tutelage of women. Daughters' absolute right in Bombay although against the texts should remain."

(3)

Messrs. N. V. Bhonde and V. J. Kinikar on behalf of the Poona Bar Association said : "We advocate a limited estate only in the case of property inherited from the husband or the husband's family. But we do not put it on any ground of incompetency. We want to keep the husband's property within the husband's family—except in case of legal necessity. In the case of movable property inherited from the husband, an absolute estate may be granted to the woman. In the case of immovable property, only a limited estate should be granted. But even this may be made absolute, if there are no descendants, male or female, of the husband."

(4)

Mr. Pushalkar of Kolhapur on behalf of the Brahman Sabha of Kolhapur said : "The daughter should be granted an absolute estate. The widow should have a limited estate as regards immovable property. Even here, her estate should be made a limited one, if reversioners within seven degrees are alive. This is of course subject to legal necessity."

(5)

Messrs. L. M. Deshpande, N. V. Budhkar and N. A. Deshpande of Karad opposed to the grant of absolute estate to the widows, but daughters may have absolute estate as in Bombay.

(6)

Mr. L. K. Sabai representing Sri Shukla Maharashtra Brahman Sabha, Poona.

For

(1)

Mrs. Sarojini Mehta on behalf of the Bhagini Samaj.

(2)

Mr. Tanubhai D. Desai, Solicitor.

(3)

Mrs. Babi Ben Mulji Dayal said : "The widow should have an absolute estate in movable property. In immovable property she should have an absolute estate if there are no children; but if there are children, she should not be free to dispose of her property."

(4)

Mrs. Leelabai Phadke and Mrs. B. N. Gokhale on behalf of the Arya Mahila Samaj, Bombay, said in favour of conferring absolute rights on women.

(5)

Mr. M. C. Setalwad, Advocate-General representing the Bar Association, Bombay, said : "Widows should inherit in the family of the husband as at present in Bombay. I consider that the abolition of the limited estate is necessary. The illiteracy argument applies to men as well as to women. If purdanishin women have to be protected gainst coercion, undue influence etc., they can be protected by other safeguards than by cutting down their estate."

(6)

Mr. Gajendragadkar of Satara said "The wife must, as in the code, have an absolute estate in all her property, even property inherited from her husband.

(7)

Rao Bahadur G. V. Patwardhan, Retired Small Cause Court Judge.

(8)

Rani Laxmibai Rajwade agreed that the women should be given an absolute estate, whether the property was inherited from her husband or otherwise.

(9)

The Maharashtra Mahila Mandal of Poona represented by Miss Ranade and Miss Tarabai said "We do not accept the view that women are not capable of managing properties or that they will be the victims of all kinds of fraud, and cheating, if an absolute estate is conferred on them."

BOMBAY—*contd.*

Oral evidence on absolute estate for widows—*contd.*

Against

(7)

Mrs. Janakibai Joshi on behalf of the All-India Hindu Women's Conference said that the daughter should get only a limited estate.

(8)

Mr. D.V. Joshi said: "I do not approve of the absolute estate for any woman except a daughter. Even in cases where the Mitakshara gives such an estate, I am not willing to give an absolute estate. I am against extending the principle of absolute estates to fresh cases as I fear that the property will go out of the family."

(9)

Mr. Sunderlal Joshi, President of the Hindu Code Deliberation Committee, Nadiad.

For

(10)

Lady Vidyagauri Neelkanth, President of the Gujarat Social Reform Association and of the Bombay Provincial Women's Council said : "I support the absolute estate for women. I do not feel that women are incapable of safeguarding their interest in property any more than men are.

Women alone are not exposed to the danger of squandering; men squander property quite as often.

DELHI

(1)

Mr. Ganpat Rai, Advocate, Delhi, representing the Delhi Provincial Hindu Sabha said : 'A woman may however be given an absolute estate, if there are no reversioners. She may also be given an absolute estate so far as movable property is concerned."

(2)

Messrs. Gyan Prakash Mithal and Prabhu Dayal Sarma representing the Sanatana Dharma Rakshini Sabha, Meerut, said that women should not be given an absolute estate. They are more ready to part with their property than men.

(3)

Mr. Chand Karan Sarda said that women should be given an absolute estate in movable property and a limited estate in immovable property, so that the property may remain in the family.

(4)

Rai Bahadur Harishchandra appearing on behalf of the Provincial Branch of the All India Hindu Mahasabha said that women should only have a limited estate even if Vijnaneswara decreed otherwise. They are incapable of managing property.

(5)

Pandit Nilakantha Das, M.L.A. said "If women get an absolute estate, Muhamedans in East Bengal will take away both the women and the estate. I have no objection to the absolute estate among the cultured classes but not in inherited property for the sake of the integrity of the family property. I admit that women can manage property even if they get an absolute estate".

(1)

Acharya Chandra Sekhara Sastri, editor, "Vaisya Samachar" says that whatever the daughter gets should be treated as her absolute property. Widowed daughters-in-law should get their husbands share and they should be given an absolute estate in this share as in the Jain Law.

(2)

Mrs. Rameshwari Nehru, Mrs. Chandrakala Sahai and Mrs. Rneuka Ray representing the All India Women's Conference.

(3)

Mr. K. Sanatanam.

ALLAHABAD

(1)

The All India Vernashrama Swarajya Sangh, Benares, represented by Mr. V. V. Deshpande.

(2)

Pandit Subodh Chandra Lahiri of Benares on behalf of the Kashi Pandit Samaj said "The woman's limited estate has been of very great service to the

(1)

Mr. K. R. R. Sastri, Reader in law Allahabad University said : "I am entirely in favour of making the women's estate an aboslute one. Absolute estate for women is by no means an innovation. It is only going back to the Mitakshara which is clear on the point and

Against	For
community and it should therefore remain. The interpretation of the Mitakshara to the effect that women should have absolute rights seems to me to be erroneous."	should, in my opinion, be followed. It involves no sort of violence to any principle or rule of Hindu law. I do not consider that a daughter will manage properties less competently than a son."
(3) Pandit Keshav Misra, Secretary of the Dukh Dardh Nibaran Sangh and editor of "Sri Vijaya" said that the Mitakshara may continue to be in force and women need not be given an absolute estate. On the death of a widow the estate should go to the reversioner.	
PATNA	
(1) Mr. Awath Bihari Jha, Advocate.	(1) Sri Sitaramiya Brojendra Prasad, Retired Subordinate Judge said if Mitakshara be truly interpreted he would be prepared to abide by Mitakshara. Some safeguards may be provided to prevent abuse of absolute estate.
(2) Mr. Panch Ratan Lal, President Hindu Committee, Sheghati, Gaya.	(2) Mr. Naval Kishore Prasad (No. II) Advocate, Patna High Court, agreed to an absolute estate being given to women as much litigation would be prevented thereby.
(3) Sri Awad Behari Saran, Government Pleader, Shahabad said that he would give only a limited estate to women inheriting properties, and he did not want the Bombay rule by which the daughter could get her absolutely.	
(4) Mr. G. P. Das, Government Pleader said : "I am not in favour of giving an absolute estate to women. If women get property they are likely to be more extravagant and the property is likely to be lost to the family. A woman is only too apt to be duped by her father, brothers or other designing male relatives. "	
(5) Mr. Nitai Chandra Ghose, Advocate, Patna said that the daugther, if the sole heir might take the property absolutely. Where however she is likely to beget a son, she should have only a life estate. A widowed daughter who inherits in the absence of a son may take the property absolutely.	
(6) Mr. Rai Tribhavan Nath Sahai, Advocate representing the Central Bihari Association said : "I am opposed to granting an absolute estate to women and I think that the existing law should stand. So far as my experience goes, no woman has kept her property in tact throughout her life. She is so liable to be duped."	
(7) Mr. Kapildeo Narain Lal, Advocate.	
(8) Mr. Manmatha Nath Pal, Advocate said "As regards absolute estate for women? "Golap Chandra Sarkar considers the Privy Council view to be incorrect. The Smriti Chandrika however differs from the Mitakshara on this point and I prefer the Smriti Chandrika view."	(3) Messrs. Chandra Sekhar Prasad Sinha and Atulendu Gupta, Pleaders, on behalf of the Dinapur Bar Association approved the absolute right for women.

Oral evidence on absolute estate for widows—*contd.*

Against

(9)

Mr. Satish Chandra Misra, Advocate.

(10)

Mr. Krishna Deva Prasad on behalf of the District Bar Association, Patna, says that they are not in favour of an absolute right being given to women.

(11)

Rai Sahib Sri Narain Arora and 10 others representing the Bihar Provincial Hindu Mahasabha said : "They did not agree that the clause giving absolute right to women to be in accordance with the Mitakshara" and further added "We prefer the Hindu Law as interpreted by the Privy Council to the Mitakhsara. So far as property acquired by inheritance or partition is concerned we think that women should not have an absolute right. The practical application of the existing law regarding limited estates has shown that it is advantageous and that its effect on society is good."

(12)

Mr. Navadwip Chandra Ghosh, Advocate, Patna High Court on behalf of the All India Yadav Mahasabha opposed to the provision of an absolute right to women on properties.

(13)

Mr. Hari Nandan Singh, M.L.A., Advocate.

(14)

Mr. Brahmo Deo Narayan, Advocate, said: "I am against giving an absolute estate to women because I feel they are liable to be duped easily. Like minors, they seem to stand in need of protection. An adult male cannot be duped so easily as a woman"

(15)

Mr. Mukteswar Pandya, M.L.A.

For

CALCUTTA

Against

(1)

Messrs. Phanindra Nath Brahma and 9 others representing the Bengal and Assam Lawyers' Association said : "We also object to giving an absolute estate to women."

(2)

Dr. Ananta Prasad Banerji, Principal, Sanskrit College, Calcutta, said "I am against giving an absolute estate to women; in my opinion it is against the shastras. It also introduces a foreign element. Moreover, an absolute estate would make the women too independent. I am not against giving an absolute estate to a widow who has children; my objection is to a childless widow getting an absolute state. Even here, I would not press my objection so far as movable property is concerned."

(3)

Mahamahopadhyaya Chandidas Nyaya Tarkathirtha, President, Bangiya Brahman Sabha, Mahamahopadhyaya Durga Charan Sankhatirtha, Pandit Sarat Chandra Sankhatirtha, Pandit Narendranath

For

(1)

Mr. A. C. Gupta, Advocate, High Court said—

"I am against any limited estate. It was unknown to the Mitakshara jurisdictions until the Privy Council decision".

(2)

Professor K. P. Chattopadhyaya of Calcutta University said—

"I should like a distinction made between self-acquired and ancestral property; widows should get an absolute estate in the former and an absolute estate in one half of the latter plus a limited estate in the other half. The widow should not get the entire property when there are grand children; she should have only one-half."

(3)

Messrs. R. M. Gaggar, K. C. Kothar and B.D.D. Mundhra representing the Maheswari Sabha said: "We agree to the absolute estate for women."

Oral evidence on absolute estate for widows—*contd.*

Against	For
Sidhanta Sastri, Secretary, Pandit Tripatha Nath Smrititirtha, Secretary, Navadwip Ranga Bibudha Janini Sabha and Pandit Satyendra Nath Sen, Secretary, Varnashram Swarajya Sangha, representing the Bangiya Varnashrama Swarajya Sangha and the Bangiya Brahman Sabha said : "We are against the absolute estate for women. Even the Mitakhsara does not, in our opinion, decree it."	
(4) Messrs. B. K. Chatterji, Chief Auditor, E.I. Rly. and Chotaylal Kanoria representing the Dharam Sangh, said : "There should be no absolute estate for women except in technical stridhana. The interpretation of the Mitakshara to the contrary is erroneous."	
(5) Messrs. Hiralal Chakravarty, and five other Advocates representing the Calcutta High Court Bar Association said: "We are against the absolute esta te and would like to preserve the existing law. Property should not pass into the hands of strangers. If a mother is made an absolute heir, she is likely to favour others, for example daughters in preference to her own sons. There are socialogical and economic reasons against women having absolute estates. The ordinary women proprietor should not be judged from exceptional specimens. A woman is likely to be duped. Even where the last full owner has died, leaving no direct descendants, the widow should have only a limited estate. We do not agree that even where there are no heirs of the "compact series" the widow should have an absolute estate."	
(6) Mahamahopadhyaya Pandit Anantakrishna Sastri said : "My view is that the daughter has an absolute estate with certain limitations even in inherited property. A widow should be considered to have the same rights as a man in property, and subject to much the same limitations. According to the Mitakshara full rights are not possessed even by men in immovable properties."	
(7) The Maharani of Natore, Mrs. Saradindu Mukerji and seven other ladies said : "The *status quo* should continue and no changes are necessary."	
(8) Pandit Akshay Kumar Shastri and Pandit Sarat Kamal Nyayatirtha representing the Tarakeswar Dharma Sabha are of opinion that this is against the authorities.	
(9) Srimathi Anurupa Devi and Lady Nanivala Brahmachari, the latter representing the Deshbhandhu Mahila Vidyan Samiti as President, said : "We are against an absolute estate for women. They are liable to be duped, as they are illiterate."	

Oral evidence on absolute estate for widows—*contd.*

Against

(10)

Pandit Narayan Chandra Smrititirtha, and Pandit Srijiva Nyayatirtha of the Calcutta Sanskrit College and the Bhatpara Sanskrit College said : "We are against this and can cite the Mahabharata in favour of our view. The Dayabhaga decrees only a life estate."

(11)

Messrs. Satinath Roy, and four others representing the Indian Association said : "We are against this; it may be detrimental to the interests of the women themselves and of their family."

(12)

Mrs. S. R. Chatterji and 7 other ladies representing the Hindu Women's Association said : "We are against an absolute estate in inherited property for women, however educated or capable they may be. At any rate, in present conditions, an absolute estate seems to be inadvisable."

(13)

Mr. Kumar Purendra Nagore Tagore, Bar-at-Law representing the All India Anti-Hindu Code Committee.

(14)

The Marwari Association, The Marwari Chamber of Commerce and the All-India Marwari Federation, said : "We are against giving an absolute estate to women in inherited property. The daughter may however retain her absolute estate in Bombay, as that is the existing law there. In other Provinces, she may continue to have a limited estate".

For

(4)

Mr. Rishindranath Sarkar, Advocate said: "I am in favour of giving the widowed daughter-in-law her place under the Desmukh Act, but she (and the widow of the owner) should have an absolute estate and what she does not alienate or dispose of by will should descend to the reversioner".

(5)

Mr. P. L. Shome, Advocate-General of Assam.

MADRAS

Against

(1)

Rao Bahadur K. V. Krishnaswamy Ayyar , Advocate said : "The daughter should get an absolute estate, but the widow and the mother should only get a life estate with vested reminder to the next heir. I prescribe a strict life estate for the widow and the mother on the assumption that the daughter is to get a share in her father's property absolutely. If the daughter is not to be given a share then the widow may be given an absolute estate."

(2)

Sir Vepa Ramesam, Retired High Court Judge, said "I am not opposed to this but have my misgivings in present cultural conditions. In certain grades of society, there will be no danger; in others there may be. But we should confine the right of challenging the widow's alienations to the husband's descendants; in any case, the right should not extend beyond the compact series of heirs".

(3)

M. S. Muthia Mudaliar, C.I.E., Advocate, said : "I am not in favour of this. The limited estate should continue as at present. After the widow's death, the agentic relatives of the husband should get the estate. My chief reason is that the property should

For

(1)

The Rt. Hon'ble V. S. Srinivasa Sastri said "I am all in favour of the attempt to enlarge women's rights to inherit and to abolish the women's limited estate. Both changes are in consonance with modern ideas. The ultimate aim must be to bring men and women to the same level. I welcome these changes."

(2)

Diwan Bahadur R. V. Krishna Iyer said : "I am very much in favour of the absolute estate for women. In fact I would go further and give them an absolute estate even when the property was inherited by them before the commencement of the Code. All property acquired by a woman, whatever the manner of acquisition should be her absolute property."

Oral evidence on absolute estate for widows—*contd.*

Against	For
remain in the family as long as possible. If litigation is to be avoided, let the court's previous sanction be acquired for an alienation of property. I do not like to limit the right of challenge to the nearer reversioners."	(3) Mr. K. Bashyam, Presidnt and three other Advocates representig the Madras High Court Advocates' Association said: "We are in favour of granting an absolute estate to women; even those now holding a limited estate may have their estateenlarged into an absolute estate. The Mysore rule is that women's estates should be limited if there are descendants of the deceased. This may be considered as an alternative suggestion."
(4) Mr. P. V. Sandaravaradulu, Advocate, Chittoor said: "The widow's state should be limited as at present. A woman's affections are usually centred on her mother's side relations. Hence my preference for the limited estate in the case of property inherited by a woman from her husband. The property should after the widow's death revert to her husband's heirs."	(4) Mr. P. V. Rajamanner, Advocate-General of Madras and Judge-Designate, Madras High Court said: "I am in favour of this even in respect of inherited property, I think, women should have absolute rights."
(5) Mr. Arunachala Pilai said: "My personal view regarding the absolute estate however is that the Hindu women's limited estate in inherited property should continue as at present. Women are not so educated or advanced as to be capable of holding an absolute estate. Men are more circumspect and capable. Besides, the absolute estate would lead to fragmentation."	(5) The Vellala Sangham represented by Messrs. Arunachala Pilai and three others supported this.
(6) Mr. K. S. Champakesa Iyengar on behalf of the Vanamamamalai Mutt said: "We are against this. Women are sufficiently provided for under the existing law. (After argument) I have no objection to the right of challenging a woman's alienations being confined to the heirs in classes *I to III."	(6) Srimathi M. A. Janaki, Advocate Madras High Court, said "I have long been in favour of this. In these days men are more likely to waste property than women. Speculations, etc. are temptations for man, not for woman. What does it matter after all if a woman does give the property to her own blood relations? Retrospective effect may be given to the provision regarding absolute estate from say 1941."
(7) Messrs. V. P. S. Manian, R. P. Thangavelu and M. Ponnu representing the South Indian Budhist Association said: "We want to give an absolute estate to the daughter, but only a limited estate to the widow."	(7) Mr. G. V. Subha Rao, President of the Andhra Swarajya Party.
(8) Mr. B. Sitarama Rao, Advocate said: "Personally, I am in favour of the absolute estate. So far as daughters are concerned everybody would agree; but as regards widows, the feeling is against."	(8) Mr. V. Appa Rao, Advocate, Vizagapatam appearing for the *Ad Hoc* Committee and Bar Association, Vizagapatam said in favour of giving an absolute estate to women in inherited property as well as in other stridhan.
(9) Diwan Bahadur K. S. Ramaswami Sastri, Retd., District and Sesssions Judge said: "I am in favour of giving an absolute estate to daughters, but the widows should have a limited estate if there are children of the husband; otherwise they may have an absolute estate."	(9) Mr. P. C. Reddy of the V. R. College, Nellore.
(10) Mr. T. V. R. Appa Rao, Advocate, Secretary, Narsapur Bar Association representing the Association opposed to this, whether for the daughter or for the widow.	(10) Sir P. S. Sivaswami Iyer, said: "I think that an absolute estate may be given to women as laid down in the Mitakshara."

Oral evidence on absolute estate for widows—*contd.*

Against

(11)

Messrs. S. Mahalinga Iyer, and two other Advocates, Pandit K. Balasubramanya Sastri on behalf of His Holiness the Sankaracharya of the Kanchi Kamakoti Peth said "We are against conferring any new absolute estate on women. Their rights may continue as at present; in other words, they should have absolute rights only in technical stridhana".

(12)

Mrs. Kamalammal of the Asthika Madar Sangham said: "We are against this, whether for widow or for daughters. If they get an absolute estate they are likely to waste the property; they would not be exposed to the temptation.

(13)

Dharma Bhushna Dharma Sarvadhikara Rao Sahib N. Natesa Iyer, Advocate, Madura appearing as a representative of All India Varnashrama Sangha, Madras Dharma Sabha, Madura Dharma Sevak Sangh and of the Orthodox Ladies' Association, Madura said: "Even males do not have an absolute estate under the Smritis. The right by birth is an effective check; except in techincal stridhan, there can be no absolute estate for women. The Mitakhsara may be set aside in view of the weighty opinions expressed by the other commentators which have been actually followed up to the present time. I would not disturb the present position in any way. I am therefore opposed to the absolute estate for women."

(14)

Diwan Bahadur Govindoss Chaturbhujdoss.

For

(10)

Sir P. S. Sivaswami Iyer said "I think that an absolute estate may be given to women as laid down in the Mitakshara."

(11)

Mr. B. N. Guruswami, Secretary of the Tamilar Nalvazhkkai Kazhagam.

(12)

Sri Balasu bramania Iyer, Advocate.

(13)

Mr. S. Srinivasa Sastri of Papanasham said that a woman's inheritance under the existing law should be made absolute.

NAGPUR

Against

(1)

Mr. G. T. Bride, M.A., LL.B., Advocate said: "Any cash obtained by the daughter should be at her absolute disposal. In so far as it is not possible to give the daughter her share in cash, she may enjoy an absolute estate in the properties obtained by her in Bombay and a limited estate elsewhere. The widow, however, should have a limited estate everywhere."

(2)

Dr. D. W. Kathalay, Advocate, supported by Dr. B. S. Moonje and Mr. B. G. Khaparde, an ex-Minister of the C. P. said: "I am against giving an absolute estate to women in inherited property."

(3)

Diwan Bahadur K. V. Brahma, Advocate.

For

(1)

The National Council of Women in India represented by Mrs. Ramabai Thambe, Miss. A. J. Cama, Mrs. Naidu and Mrs. Manopa.

(2)

Mrs. Natesa Dravid and Miss P. Pradhan, M. A., LL.B., Advocate, Members of the All India Women's Conference.

(3)

Mr. A. R. Kulkarni, B.A., LL.B., Secretary of the Bar Council said: "I am in favour of an absolute estate being given not only to the daughter, but

NAGPUR—*contd.*

Oral evidence on absolute estate for widows—*contd.*

Against	For
(4) Mr. B. D. Kathalay, Advocate, said: "There should be no absolute right for women, except in stridhana over which I agree that they should retain absolute control."	also to the widow. The limited estate is the source of much litigation and does not enable the widow to realize funds easily when they are badly required.
(5) Dr. K. L. Daftri on behalf of the Dharma Nirnaya Mandal said: "There should be no absolute estate for women if any one exists in the compact series of heirs up to the uncle's son".	(4) The Jain Seva Mandal, Nagpur and The Jain Reserach Institute.
(6) Diwan Bahadur Sita Charan Dube, Advocate.	
(7) Mr. P. B. Gole and three others representing the Varnashrama Swarajya Sangh of Akola.	
(8) Mr. Kashturchand Agarwal, Pleader, Sooni.	
(9) Mr. S. N. Kherdekar, Advocate, Nagpur.	
(10) Women's deputation consisting of Lady Parvatibai Chitnavis and four others.	

LAHORE

Against	For
(1) Sanathan Sanskrit College, Hoshiarpur—Principal—Pandit Jagatram—representing the Sanathan Dharma Sabha said: "We are opposed to the widow getting an absolute estate in her husband's property."	(1) The All-India Jat Pat Torak Mandal represented by Mr. Sant Ram approved of the absolute right to women in property.
(2) The Sanathan Dharma Prathinidhi Mahasabha, Rawalpindi represented by Luxmi Narain Sudan.	(2) Mr. C. L. Anand, Principal, Law College Lahore.
(3) Mr. Narottam Singh Bindra, Advocate.	
(4) Rai Bahadur Badri Das and two others representing the Bar Association of the Lahore High Court said: "We are opposed to an absolute estate being conferred on widows, especially in the case of inherited property. Otherwise the property will pass into the hands of strangers. Women in the Punjab have not got much commercial acumen or experience and they really do not know how to manage property efficiently."	

My conclusion on the question as to whether widow should get absolute estate and not merely life estate in property inherited from her husband, as at present.

In my opinion an examination of the evidence both oral and documentary shows that a very large majority are in favour of retaining the present state of things. Some of the witnesses have said that a widow shall have a limited estate on immovable property. Others have said that a woman should be given an absolute estate if there is no reversioner. Although the opinion may be divided as to whether on a true reading of the Mitakshara it may be that a property obtained by inheritance by a woman from her father is only a limited estate the Judicial Committee of the Privy Council have ever since their decision in the Sivaganga case nearly eighty years ago laid it down that the estate should be regarded as a limited one and it would not be right for us to recommend any change in this view as it would disturb many existing titles. Besides it has been said that the rule in the Hindu law regarding the limited estate of a Hindu widow is not due to any idea of inferiority of women but is calculated to secure to the family the ultimate return of the property after its fullest enjoyment by the female owner and to prevent it from passing on to the strangers. Other reasons given are that a woman in possession of an absolute estate is likely to be duped. There may be exceptional cases of women managing the estates but the ordinary woman proprietor should not be judged from an exceptional specimen. Sreemati Anurupa Devi, a lady novelist of great repute says. “We are against an absolute estate for women as they are likely to be duped, as they are illiterate. “Sir Vepa Ramasam, Retired Judge of the Madras High Court says that he has his misgivings in the present cultural conditions in granting an absolute estate to women in inherited property. Although the Rt. Hon'ble Mr. Srinivas Sastri is in favour of the attempt to enlarge women's right to inherit and to abolish women's limited estate, the majority of opinion in all the Provinces is against the extending the rights of women in inherited property. In view of the decision of the Privy Council in Sivaganga case giving women limited interest in inherited property, I would not disturb the existing order of things. In view of the very strong opposition against the proposed provision for giving absolute right to women in inherited property I am not in favour of any change in the existing order of things.

4. Whether the Mitakshara doctrine of sons taking a share in ancestral property on birth equal to that of their father should be abolished in Mitakshara jurisdictions and whether the doctrine of survivorship in coparcenary property should go ?

BOMBAY

Oral evidence on right by birth and survivorship.

Against	For
(1) Mrs. Babi Ben Mulji Dayal said: “The Mitakshara joint family should not be interfered with, the Bengal joint family will not be acceptable to us.”	(1) Mrs. Kamala Dongerkerry and Mrs. Sulochana Mody representing the Bombay Presidency Women's Council stated that the majority of the Council were in favour of the Mitakshara being brought into line with the Dayabhaga.
(2) Lady Chunilal V. Mehta and others representing the Gujarti Hindu Stri Mandal Stated that the majority of the Gujarati Stri Mandal were in favour of retaining the Mitakshara.	(2) Mr. M. C. Setalwad, Advocate-General representing the Bar Association and also in his personal capacity said: “So many inroads have already taken place in the doctrine of survivorship and the right by birth that it is time they are done away with. The Mitakshara jurisdictions should fall in line in this respect
(3) Rao Bahadur P. C. Divanji said “I am aginst the abolition of the principle of survivorship and the right by birth in ancestral property. I would extend the Mitakshara rule to Bengal rather than the reverse.”	

Oral evidence on right by birth and survivorship—*contd.*

Against

(4)

Sri Chimanlal Setalvad said: "I think that the Mitakshara joint family system should continue as it is. The joint family system offers a certain measure of security to all the members of the family and there is a reason why it should be abolished. There are other systems of law in which testamentary power is limited. There is before nothing singular in a member of Mitakshara joint family being incompetent to will away his interest in ancestral property. I have no objection to the widow and the daughter being admitted as coparceners in the joint family property."

(5)

Rani Laxmibai Rajwade said: "I prefer the Mitakshara system to the Dayabhaga so far as the provisions in Part III-A are concerned."

(6)

Messrs. N. V. Bhonde and V. J. Kinikar appearing on behalf of the Poona Bar Association preferred the Mitakshara in spite of the handicaps which a right by birth implies, and suggested that the powers of the father should be enlarged, *e.g.*, he might be allowed to borrow money for purpose of business. They advocated to the retention of cl. ? of Part III-A.

(7)

Mr. Pushalkar of Kolhapur representing the Brahman Sabha of Kolhapur said that he preferred the Mitakshara system in spite of its handicaps to the Dayabhaga.

(8)

Miss Ranade and Miss Tarabai representing the Maharashtra Mahila Mandal said that right by birth should be reserved, limitations may be placed on the daughter's rights by giving her children also a right of birth.

(9)

Messrs. L. M. Deshpande, N. V. Budhkar and N. A. Deshpande of Karad said: "The joint family system should be preserved to prevent the dissipation of the family property."

(10)

Mr. L. K. Bhave representing the Maharashtra Brahman Sabha said: "We prefer the Mitakshara to the Dayabhagha. The right by birth and the right of survivorship should be preserved."

(11)

Mr. D. V. Joshi preferred the application of the Mitakshara throughout India to that of the Dayabagha.

(12)

Mr. K. M. Munshi said: "The abolition of the right by birth and of the principle of survivorship constitutes a fundamental change which I think it is difficult to justify."

For

with the Dayabhaga. These doctrines lead at present to a great deal of litigation and immoral litigation at that. This is my presonal view and also the view of the majority of the Bar Association. I think the Hindu community governed by the Mitakshara is suffering comparison with other communities because of the restrictions implied in survivorship and the right by birth".

(3)

Mr. Gajandragadkar of Satara said: "I very strongly support these provisions. The present position is a great hindrance to enterprise and transfer of property. I prefer the Bengal position".

(4)

Rao Bahadur G. V. Patwardhan, Retd. Small Cause Court Judge said: "I have no objection to the abolition of the right by birth, but some safe-guards should be devised against wasteful expenditure by the father. The same restriction should apply to ancestral property inherited by the widow."

(5)

Mrs. Yamutai Kirloskar representing the All-India Maharastra Mahila Mandal preferred Dayabhaga which is in greater accordance with present day trends.

(6)

Lady Vidyagauri Neelkanth, President of the Gujarat Social Reform Association and of the Bombay Provincial Women's Council said: "I am against the son's right by birth in ancestral property and agree to its abolition as proposed."

BOMBAY—*contd.*

Oral evidence on right by birth and survivorship—*contd.*

Against	For
(13) Mr. Sunderlal Joshi, President of the Hindu Code Deliberation Committee, Nadiad said: "I would not disturb in any circumstances the Hindu joint family. Right by birth, and survivorship should remain."	
(14) Mr. Ganpat Rai, Advocate, Delhi and Agent Federal Court, representing the Delhi Provincial Hindu Sabha said:"I am against the abolition of survivorship and right by birth. I am against even the Deshmukh Act."	
(15) Acharya Chandera Sekhara Sastri, Editor, "The Vaishya Samachar" gave his opinion in favour of preservation of the joint Hindu family and survivorship.	
(16) Mr. Chand Karan Sarda, President, Rajputana Provincial Hindu Sabha said: "I am against the abolition of the joint family system. The right by birth and the rule of survivorship should remain. The law in this respect should remain as it is."	
(17) Rai Bahadur Harishchandra, Advocate, Delhi, on behalf of the Provincial Branch of the All India Hindu Mahasabha (Delhi).	
ALLAHABAD	
(1) Mr. Bajranglal Chand Gotriya, General Manager, Gita Press, Gorakhpur said that the Mitakshara and the Dayabagha should be left to their operation in the different parts of India as at present.	
(2) Mr. V. V. Deshpande of Benares representing the All India Varnashrama Swarajya Sangh stated that the Mitakshara and Dayabhaga should not be unified.	
(3) The representatives of the Sarawsathi Wagvilas Mandal, Benares said that the right by birth should be preserved.	
(4) Pandit Subodh Chandra Lahiri of Benares on behalf of Kashi Pandit Samaj said: "I want both the Mitakshara and the Dayabhaga to remain in operation in the areas in which they are now in force. I do not see any necessity for unifications, nor is it possible to achieve it. The same law has been interpreted differently by the different high Courts. How can there be any unification?"	
(5) Pandit Keshav Mishra, Secretary of the Dukh Durdh Nibaran Sangh and editor of "Sri Vijaya" a Hindi Bi-weekly.	

ALLAHABAD—*contd.*

Oral evidence on right by birth and survivorship—*contd.*

Against

(6)

The All India Agarwal Hindu Mahasabha, U.P. represented by Bishambarnath Sabha, said: "The right by birth and survivorship should be maintained. The Mitakshara joint family should not be further tampered with. The decisions have gone far enough in recognizing individual rights. We do not want the Deshmukh Act, but we cannot help it."

PATNA

(1)

Mr. Awath Bihari Jha, Advocate, Patna said: "I am for the right by birth and the principle of survivorship and wish the Mitakshara to continue."

(2)

Mr. Panch Ratan Lal, President, Hindu Committee, Sheghati, Gaya.

(3)

Mr. Naval Kishore Prasad (No. II), Advocate, Patna High Court preferred the Mitakshara law to the Dayabhaga as the latter would lead to alienations of the family property.

(4)

Mr. G. P. Das, Government Pleader and Public Prosecutor, Orissa in the Patna High Court.

(5)

Mr. Rai Tribhavan Nath Sahai, Advocate, representing the Central Bihari Assocn.

(6)

Mr. Kapildeo Narain Lal, Advocate said that the right by birth and the right of survivorship should both be retained. No encouragement should be given to spend thrift fathers by repealing these rights.

(7)

Mr. Manmathanath Pal, Advocate.

(8)

Mr. Satish Chandra Misra, Advocate.

(9)

Mr. Krishna Deva Prasad on behalf of the District Bar Association.

(10)

Messrs. Chandrasekhar Prasad Singha and Atulendu Gupta, Pleaders on behalf of the Dinapore Bar Association.

(11)

Bihar Provincial Hindu Mahasabha represented by Rai Saheb Sri Narain Arora and others.

(12)

The Bihar Pranthiya Sanathan Dharam Sabha represented by Messrs. D. P. Tiwari and others.

(13)

Mr. Navadwip Chandra Ghosh, Advocate, Patna High Court representing the All India Yadav Mahasabha.

For

(1)

Sri Sitaramiya Brojendra Prasad, M.A., B. L., Retired Subordinate Judge said: "The Dayabhaga is preferable to the Mitakshara. I would abolish the joint family system the right by birth and the right of survivorship. I find that in Bihar, boys of rich families are indolent because they have a right by birth, whereas in Bengal the Dayabhaga boys are active and enterprising as they acquire no right to the family property merely by birth."

PATNA—*contd.*

Oral evidence on right by birth and survivorship—*contd.*

Against	For

(14)

Mr. Hari Nandan Singh, M.L.A., Advocate.

(15)

Sri Brahmo Deo Narayan, Advocate.

(16)

Mr. Mukteswar Pandya, M.L.A.

CALCUTTA

Against

(1)

Messrs. B. K. Chatterji, Chief Auditor, E. I. Rly., and Chotaylal Kanoria, representing the Dharam Sangh.

(2)

Messrs. R. M. Gaggar, K. C. Kothari and B. D. D. Mundhra representing the Maheswari Sabha said that the joint family law should remain as it is.

(3)

Mr. Rishindra Nath Sarkar, Advocate, said: "In my view the Mitakshara joint family should continue. It is an institution which provides unemployment insurance. It is a state in miniature. The Dayabhaga joint family is inferior to the Mitakshara joint family. I think the father should not alienate property without obtaining the consent of his sons. Sons should have a right by birth but not a right to demand partition. I am speaking of ancestral property."

(4)

Swami Ram Shukla Das and five others representing the Govind Bhavan said: "The Dayabhaga and Mitakshara should remain as they are, in their respective jurisdictions."

(5)

Messrs. N. C. Chatterjee, Sanat K. Ray Chaudhury and others representing the Bengal Hindu Mahasabha said: "The abolition of the coparcenary is a radical revolution. If the bulk of the Hindus who are governed by the Mitakshara law is opposed to its abolition, then there is no point in enacting the code. It will then be merely a Code for the Bengali Hindus and the case for uniformity will disappear. Our point is that the code should not apply to Dayabhaga Hindus only, in case clauses 1 and 2 of Part III-A which abolish the coparcenary go out."

(6)

The Marwari Association, represented by Mr. Baijnath Bajoria, M.L.A., Rai Bahadur Ramdev Chowkhany and Mr. Bhuramal Agarwal. The Marwari Chamber of Commerce and the All India Marwari Federation represented by Messrs. I. D. Jalan, M.L.A., Attorney-at-law, C. M. Saraj, Pannalal Sarangi and B. S. Sharma said: "We want to retain the right by birth and the doctrine by survivorship."

For

(1)

Mr. A. C. Gupta, Advocate, Calcutta High Court said: "The tendency of Hindu Society in the Mitakshara jurisdiction is distinctlyt owards the Dayabhaga, and the draft code in preferring the Dayabhaga is in the right direction."

(2)

Pandit Akshay Kumar Shastri and Pandit Sarat Kamal Nayathirtha representing the Tarakeswar Dharma Sabha said: "We have no objection to the Mitakshara being assimilated to the Dayabhaga."

MADRAS

Oral evidence on right by birth and survivorship—*contd.*

Against

(1)

Diwan Bahadur R. V. Krishna Iyer, B.A., M.L., C.I.B.

(2)

Sri V. Venkatarama Sastri representing nine organizations having a membership of more than 20,000 with branches in nearly 400 villages said: "We are against the abolition of the Mitakshara joint family at present."

(3)

Mr. V. Appa Rao, Advocate, Vizagapatam said: "We are against the abolition of the right by birth or survivorship, in spite of the existence of hardship in exceptional cases. The Dayabhaga should not be imposed on the rest of India."

(4)

Sri. V. V Srinivasa Iyengar, Retired High Court Judge, Madras, said: "I am in favour of keeping the right by birth and survivorship. The ideal joint family system is the best for the whole country. But I would give the power of disposition by will of coparcenary interest. This can be done by two steps now. My suggestion is that it be done in one hereafter."

(5)

Mr. P. C. Reddy of the V. R. College, Nellore.

(6)

Mr. B. Sitarama Rao, Advocate.

(7)

Mr. V. M. Ghatikachalam of the Madras Provincial Backward Classes League, which has 7,000, members on its rolls said: "The joint family system should be preserved. It will prevent fragmentation. But justice must be done to the daughters who should be given a right by birth for their lives."

(8)

Mr. S. Srinivasa Iyer, Advocate, and Vice-President of the Madras Hindu Mahasabha preferred Mitakshara to the Dayabhaga and said Bengal to be predominantly Muslim because of the Dayabhaga.

(9)

Sri K. Balasubramania Iyer, B.L., Advocate.

(10)

Messrs. K. S. Mehta and M. L. Sharma representing the Sowcars Association and the Marwari Association.

(11)

Messrs. S. Mahalinga Iyer and two other Advocates and Pandit K. Balasubramanya Sastri said on behalf of His Holiness the Sankaracharya of the Kanchi Kamakoti Peeth said: "The coparcenary should be preserved; it is better suited to Indian conditions, and will maintain the solidarity of the family, especially in the present economic conditions. The joint family system has been useful all

For

(1)

The Right Honourable V. S. Srinivasa Sastri said: "I confess, having grown up under the old ideas of the joint family. I was little shocked at first at the right by birth being abrogated. There is some point in the objection that the joint family system is being disrupted. But the joint family is already crumbling many inroads have been made into it; the modern spirit does not favour its continuance any longer. The choice is between maintenance of big estates and recognition of the independence of individual members of the joint family. The latter in my opinion is a more important aim as it affords greater scope for individual initiative and prosperity".

(2)

Rao Bahadur K. V. Krishnaswamy Ayyar, Advocate.

(3)

Mr. K. Kuttikrishna Menon, Government Pleader.

(4)

Mr. P. V. Rajamannar, Advocate General, Madras, and Judge-designate, Madras High Court is in entire agreement with the proposal to abrogate survivorship and the right by birth.

(5)

Mr. S. Ramanathan, M.A., B.L.

(6)

Mr. P. V. Sundaravaradulu, Advocate, Chittor.

(7)

Sri Rao Bahadur V. V. Ramaswamy, Chairman Municipal Council, Virudunagar.

(8)

Sir P. S. Sivaswami Iyer said that the right by birth and survivorship should go.

(9)

Diwan Bahadur K. S. Ramaswami Sastri said: "I am strongly in favour of the Dayabhaga. The right by birth is a great drag on economic progress and I am therefore for the abolition of the Mitakshara coparcenary."

(10)

Sri D. H. Chandrasekharaiya, B.A., B.L. of Mysore, President, Legislative Council.

MADRAS—*contd.*

Oral evidence on right by birth and survivorship—*contd.*

Against	For
along and is worthy of preservation. Right by birth and survivorship should therefore remain as at present. The Mitakshara may be extended to Bengal also".	
(12) Rao Sahib N. Natesa Iyer, Advocate, Madura representing All India Varnasharma Sangh, Madras Dharma Sabha, Madras Dharma Sevak Sangha and the Orthodox Ladies Association, Madura, said that the Dayabhaga should not be applied to the whole of India, and gave his opinion against the abolition of the right by birth and survivorship.	
(13) Diwan Bahadur Govindoss Chaturbujdoss opposed to the abolition of the right by birth and survivorship.	

NAGPUR

Against	For
(1) The National Council of Women in India represented by Mrs. Ramabai Thambe, Miss. A. J. Cama, Mrs. Naidu and Mrs. Mandpa stated: "We have not considered the point whether the Mitakshara or the Dayabhaga should be preferred."	(1) Mrs. Natesha Dravid and Miss P. Pradhan, M.A., LL.B., Advocate, Members of the All India Women's Conference (Nagpur Branch) preferred Dayabhaga.
(2) Mr. G. T. Bride, M.A., LL.B., Advocate, Nagpur said: "Right by birth should be retained and the law should remain as it is in this respect in all the Mitakshara Jurisdictions."	(2) Mr. A. R. Kulkarni, B.A., LL.B.
(3) Dr. D. W. Kathalay, Advocate, supported by Dr. B. S. Moonje and Mr. B. G. Khaparde, said: "I am for retaining the right by birth and survivorship and would like to introduce the Mitakshara into Bengal. We cannot afford to destroy the joint family system which exists in spite of the many inroads which have been made into it."	
(4) Diwan Bahadur K. V. Brahma, Advocate.	
(5) Mr. B. D. Kathalay, B.A., LL.B., Advocate said: "The present Code will give a death blow to the institution of the joint family. In Western countries on the other hand, in recent years, the attempt seems to be to rear some institution like the joint family. The right by birth and survivorship should be retained in the Mitakshara Jurisdictions. The joint family is a sort of social insurance which is beneficial to the poorer members."	
(6) Mr. I. S. Pawate, Sub-Judge, Baramati, Poona, said: "The right by birth works justice and not injustice for it acts as a restraint on the father. It may be retained."	(3) The Jain Seva Mandal, Nagpur and the Jain Research Institute, C.P. & Berar said: "We accept the abolition of the principle of survivorship. There is no right by birth amongst us, although the Mitakshara has been applied to us."

NAGPUR—*contd.*

Oral evidence on right by birth and survivorship—*contd.*

Against	For
(7) Diwan Bahadur Sita Charan Dube, Advocate said: "The Mitakshara right by birth and survivorship should remain. These rights are the very foundation of Hindu Society in these Provinces, and their abolition will result in disintegration. In all probability the family may in future become a more closely-knit unit that it is now. I would leave the Bengal law as it is and the Mitakshara law also as it is." (8) Mr. P. B. Gole, LL.B., Miss Vimal Thakkar and others appearing on behalf of the Varnashrama Swarajya Sangh of Akola said: "The right by birth and survivorship should remain. The family is the unit in Hindu Law, and there are many advantages in keeping it so, wherever possible. The joint family is a peculiar institution of the Hindu law and is worthy of preservation." (9) Mr. Kasturchand Agarwal, B.A., LL.B., Pleader Seoni, Chindwara. (10) Lady Paravatibai Chitnavis, Mrs. Laxmibai Paranjape, Mrs. Premilabai Varadpande and two others representing the Mahasabha point of view opposed to the abolition of the right by birth and survivorship.	(4) Dr. K. L. Daftri, B.A., B.L., D. Litt., on behalf of the Dharma Nirnaya Mandal approved abolition of the right by birth and the principle of survivorship. (5) The Honourable Justice Sir M. B. Niyogi of the Nagpur High Court said : "The joint family system is going and it must go. It has to be given a decent burial."
LAHORE	
(1) The All India Jat Pat Torak Mandal represented by Mr. Sant Ram, President and others opposed to the abolition of the Mitakshara principles of right by birth and survivorship. (2) The Sanathan Dharma Prathinidhi Mahasabha, Rawalpindi represented by Mr. Luxmi Narain Sudan, Vice-President opposed to the abolition of the right by birth and survivorship and said if the right by birth be abolished, there would be no check on the father's alienation of the ancestral property. (3) Mr. Narottam Singh Bindra, Advocate. (4) Mr. Jivan Lal Kapur, Bar-at-Law. (5) Dr. Prabhu Datt Shastri, P.H.D., Dr. Parasu Ram Sharma, Mahamahopadhyaya, Pandit Parameshwaranand and Pandit Roghunath Datt Shastri Vidyalankar representing the Sanatana Dharma Pratinidhi Sabha protested against the assimilation of the Mitakshara with the Dayabhaga. (6) Mr. Malik Arjan Das, General Secretary, Punjab Provincial Hindu Sabha.	(1) Mr. C. L. Anand, Principal, Law College Lahore. (2) Miss Nirmal Anand M.A., Lecturer in Geography, Kinnaird College for women.

LAHORE—*contd.*

Oral evidence on right by birth and survivorship—*contd.*

Against	For
(7) Mrs. Dunichand of Ambala, M.L.A. and 9 others claiming to represent all sections of women in the Punjab, opposed the abolition.	
(8) Mahamahopadhyaya Girdhar Sharma Chaturvedi and three others representing the Sanathan Dharam Vidyapith of Lahore.	
(9) Sardar Sahib Iqbal Singh, Advocate.	
(10) Mr. S. Nihal Singh, Advocate, President, All India Hindu Women's Protection Society.	
(11) Srimathi Panditha Krishna Devi, representing a very large number of the Hindu ladies of Lahore.	
(12) The Hindu ladies of Amritsar represented by Sardarni Kamalawati Misra, Vice-President of the All India Hindu Women's Conference.	
(13) Pandit Nandlal Sharma of Rawalpindi.	
(14) Pandit Raj Bulaqi Ram Vidya Sagar, Punjab Bhushan, President, Anti-Hindu Code Committee, Amritsar.	
(15) Mr. Mehta Puranchand, Advocate, representing the Dharma Sangh, Lahore.	
(16) Mr. C. L. Mathur, Reader, Law College.	
(17) Pandit Mehr Chand Sastri of the Sanatana Dharam Sanskrit College, Bannu, N. W. F. P.	
(18) Mrs. Lekhwati Jain of Amritsar, representative of the Jain Mahila Samity.	
(19) Pandit Rurilal Sharma and three others representing the Sanatan Dharma Prachar Dharma Sabha.	
(20) Pandit Brahmu Ram, General Secretary, Kangra Sudhar Sabha.	

My *conclusion* on the question whether the Mitakshara doctrine of sons taking a share in ancestral property on birth equal to that of their father should be abolished in Mitakshara jurisdictions and whether the doctrine of survivorship in coparcenary property should go.

My conclusion on the evidence on this point is that Mitakshara doctrine of son's taking a share in ancestral property on birth equal to their father should be retained in Mitakshara jurisdictions and that the doctrine of survivorship in coparcenary property should remain as it is. The evidence on this head both oral and documentary is almost one-sided and is in favour of no change in the existing rule. Indeed in many places we have been asked to visit the villages in order to see for ourselves the boon which joint family property and coparcenary gives to the life of the poor in the villages. It is said that the poor people in the villages in the Mitakshara countries would not have survived the struggle for existence but for the existence of the joint family system. In Bombay there is a sharp division of opinion between Sir Chimanlal Sitalvad, a very distinguished lawyer of Bombay and his no less distinguished son Mr. M. C. Sitalvad, Barrister-at-law on this question—the former being for retaining the rule of survivorship on the right of son by birth and the latter for abolishing the same. Mr. K. M. Munshi, a distinguished and well-known Barrister of Bombay said "The abolition of right by birth and of the principle of survivorship constitutes a fundamental change which I think it is difficult to justify". Rai Bahadur Haris Chandra, Advocate, Delhi on behalf of the Delhi Branch, All India Hindu Mahasabha, expressed his opinion against the abolition of this rule. The Behar Provincial Hindu Mahasabha represented by Rai Saheb Sri Narain Arora was also in favour of the retention of this rule. The All India Agarwal Hindu Mahasabha in U.P. represented by Mr. Biswambar Nath said "The Mitakshara joint family should not be further tampered with. We do not want the Deshmukh Act but we cannot help it." Mr. V. V. Srinivasa Iyengar, Retired High Court Judge, Madras is in favour of keeping the right by birth. The Rt. Hon. Srinivas Sastri said 'I confess, having grown up under the old ideas of joint family, I was a little shocked at first at the right by birth being abolished'. But it is fair to state that the Rt. Hon'ble Member is in favour of the abolition of the right by birth. I need not refer to other evidence. In my view the evidence is pre-ponderatingly over-whelming against abolition of the right of sons by birth in ancestral property and the doctrine of survivorship amongst persons governed by the Mitaksara School of Hindu Law.

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4. Whether the rule which obtains in Bombay that the husband's consent to adoption by the widow is to be presumed in the absence of prohibition should be applied to all the provinces, namely even where husband's consent written or oral is necessary before the adoption can be made by the widow?

CALCUTTA

Oral evidence on adoption.

Against	For
(1) Mr. Phanindranath Brahma and nine others representing the Bengal and Assam Lawyers' Association said that the husband's authority to authorise adoptation should be retained.	(1) Mr. A. C. Gupta, Advocate, said that one form for all India should be preferred.
(2) Swami Ram Shukla Das and five others representing the Govind Bhavan.	(2) Messrs. Hiralal Chakrabarty, Ramaprosad Chakravarty, Bankim Chandra Mukherji, Chandrasekhar Sen and Purnendu Sekhar Basu, representing the Calcutta High Court Bar Association

CALCUTTA—*contd.*

Oral evidence on adoption—*contd.*

Against	For
	said "We have no objection to the Bombay rule, permitting an adoption unless it is prohibited by the husband being extended to Bengal".
	Dr. Nalini Ranjan Sen Gupta and two others representing the Shastra Dharma Prachara Sabha said nothing in the adoption chapter to be objectionable.
	(4) The Maharani of Natore, Mrs. Saradindu Mukherji, Mrs. Manzura Banerji, Seja Bowrani of Dighapatia Raj, Mrs. P. Ganguli, Mrs. D. Mullick, Mrs. B. C. Ghosh, Mrs. P. Tagore and Mrs. Ratan Ben Jathi (Gujrati Sevika Sangh) said "We do not object to adoption where there is no prohibition by the husband. All of us are agreed that the Bombay rule is good and worthy of universal application throughout India."
	(5) Mr. Rishindra Nath Sarkar, Advocate said "On the whole I see no harm in permitting a widow to adopt in the absence of any prohibition by the husband".
	(6) Mr. Kumar Purendra Nagore Tagore, Bar-at-Law, representing the All-India Anti-Hindu Code Committee.
	(7) Mr. N. C. Chatterjee, Mr. Sanat Kumar Ray Chaudhuri and Mr. Debendranath Mukherjee representing the Bengal Hindu Mahasabha.

MADRAS

(1) Sir Vepa Ramesam, Retired High Court Judge said "This is an archic fiction, to be limited as far as possible and not extended. I would not extend the Bombay rule which in my opinion has worked havoc to other parts of India. Uniformity is not	(1) Rao Bahadur K. V. Krishnaswamy Ayyar, Advocate approved of the Bombay rule. In the absence of prohibition, the widow should have the power to adopt.
	(2) Diwan Bahadur R. V. Krishna Iyer, C.I.E., President, Brahman Sangh Sangham, Salem.
	(3) Mrs. Indrani Balasubramaniam said that the widow should have the right to adopt even if she has been prohibited by the deceased husband.

Against

essential in this matter. Particularly for impartible estates, the husband's authority should be insisted on in all parts of India".

(2)

Sri Thethiyur Subrahmanya Sastriar, President of the Madura Adwaita Sabhas said "I would stick to the Madras rule requiring the consent of husband or sapindas, and am not in favour of extending the Bombay rule to this province."

(3)

Diwan Bahadur Govindoss Chaturbujdoss said that the Bombay rule of adoption should not be made the rule of law for all India.

For

(4)

Mr. K. Bashyan (President) and others representating the Madras High Court Advocates' Association approved of the Bombay rule of adoption being extended to other provinces.

(5)

The Women's Indian Association, Madras, represented by Mrs. Ambujammal and Mrs. Savitri Rajan.

(6)

Mr. B. Sitarama Rao, Advocate, Madras High Court of 40 years' standing said "I agree that non-prohibition may be taken as a consent. The Bombay rule may be made universally applicable."

(7)

Sir, P. S. Sivaswami Iyer, K.C.S.I., C.I.E.

(8)

Diwan Bahadur K. S. Ramaswami Sastri, retired District and Sessions Judge.

(9)

Mr. S. Srinivasa Iyer, Advocate and Vice-President of the Madras City Hindu Mahasabha.

NAGPUR

(1)

Diwan Bahadur K. V. Brahma, Advocate opposed to the extension of the Bombay rule permitting adoption by the widow in the absence of an express prohibition by the husband to other provinces.

(2)

Mr. B. D. Kathalay, B.A., LL.B., Advocate is not in favour of changing the law of adoption, prevailing in the different Schools.

(3)

Diwan Bahadur Sita Charan Dube, Advocate said that the Bombay rule should not be extended to other Provinces. The Benares rule which requires the husband's express authority should be retained where it is now in force.

(4)

Mr. P. B. Gole, B.A., LL.B., and others representing the Varnasharma Swarajya Sangha preferred that the existing rules be kept. In Particular, the restrictions on the widow may be maintained in the Benares School.

(5)

Mr. Kasturchand Agarwal, B.A., LL.B., Pleader, Seoni, Chindwara.

(6)

Lady Pravatibai Chitnavis and five others.

(1)

The National Council of Women in India represented by Mrs. R. Thambe, Mrs. Mandapa and two others.

(2)

Mr. A. R. Kulkarni, B.A., LL.B., Secretary of the Bar Council.

(3)

Mr. K. L. Daftari, B.L., D.Litt. on behalf of the Dharma Nirnaya Mandal said that a woman should have a right to adopt even though the husband had prohibited her.

(4)

Mr. S. N. Kherdekar, B.A., M.L. of, Nagpur High Court.

LAHORE

(1)

Lala Jamuna Das (Secretary) and Pandit Jagat Ram Sastri, Principal of the Sansthan Sanskrit College, Hoshiarpur, representing the Sri Sanathan Dharma

(1)

The All India Jat Pat Tarak Mandal represented by Mr. Sant Ram and others.

Oral evidence on adoption—*contd.*

Against

Sabha said "We would leave the law of adoption as it is. Each Province may retain its own law of adoption as at present".

(2)

The Sanatan Dharma Prathinidhi Mahasabha, Rawalpindi, represented by Mr. Laxmi Narain Sudan, Vice-President said that the Bombay rule should not be extended to other Provinces. Absence of prohibition not to be taken as consent.

(3)

Rai Bahadur Badri Das, Mr. Jivan Lal Kapur, Bar-at-law, and Mr. Harnam Singh, Advocate, representing the Bar Association of the Lahore High Court said "As regards adoption, we are not in favour of the Bombay rule. If a widow is to have a limited estate, it follows logically that she must secure the consent of her husband or at least of his kinsmen for the adoption of a son. The Bombay rule could not, therefore, be applied to the whole of India."

(4)

Dr. Prabhu Datt Shastri, Ph.D., Dr. Parasu Ram Sharma, Mahamahopadyaya Pandit Parameshwaranand and Pandit Raghunath Datta Shastri, Vidyalankar representing the Sanathana Dharma Pratinidhi Sabha of the Punjab said "We would leave the existing law as it is in the different provinces. We are not for making the Bombay rule universally applicable to the whole of India."

(5)

The Sanathan Dharam Vidyapith of Lahore represented by Mahamahopadhyaya Girdhar Sharma Chatturvedi and others are for maintaining the *status quo* in the matter of adoption in the dattaka form by the widow.

(6)

Mr. S. Nihal Singh, Advocate, President of the All India Hindu Women's Protection Society said "Where there is no authority from the husband, I would permit the widow to adopt only an agnate".

(7)

Pandit Nandlal Sharma of Rawalpindi, General Secretary, Sri Sanatan Dharma Pratinidhi Mahasabha, Rawalpindi, President N.W.F. Vidwant Parisad said "Adoption by widows may continue to be governed by the different rules now obtaining in the different Provinces".

(8)

Dr. Miss Vidyawati Sabharwal, M.B., C.H.B. (Edin.) says that she is against the adoption of strangers and would confine adoption to sagotra relations.

(9)

andit Raj Bulaqi Ram Vidyasagar, Punjab Bhusan, President of the Anti-Hindu Code Committee, Amritsar says that he would maintain *status quo* each Province being governed by the existing law. The Dattaka Mimamsa and the Dattaka Chandrika should be maintained in the Provinces.

For

(2)

Mr. Narottam Singh Bindra, Advocate, High Court.

Oral evidence on adoption—*contd.*

Against

(10)
Mr. Mehta Puranchand, Advocate, representing the Dharma Sangh, Lahore said that he would maintain the existing rules in the Punjab. The different schools in the different Provinces may also continue as at present.

(11)
Mr. C. L. Mathur, Reader, Law College, Lahore said that he would make no change in the law of adoption and suggested that each Province might retain its own rules.

(12)
Pandit Mehr Chand Sastri of the Sanatana Dharam Sanskrit College, Bannu, N.W.F. says that a widow has no right to adopt without permission of the husband.

(13)
Miss Subrul, Principal, Fateh Chand College for Women maintained the *status quo* in the matter.

(14)
Pandit Rubilal Sharma, Secretary, All-India Dharma Sangh and others representing the Sanatan Dharma Prachar Sabha said that adoption should not be made without the express permission of the husband.

(15)
Mr. Kesho Ram, Advocate, Amritsar, representing Bar Association, Amritsar and also the Durgiana Temple Committee, as President said that a widow should not adopt without the express permission of the husband.

(16)
Pandit Brahmu Ram, General Secretary, Kangra Sudhar Sabha said that permission should be necessary for adoption by widows.

For

(3)
Mrs. Lekhwati Jain of Amritsar as representative of the Jain Mahila Samity.

BOMBAY

(1)
Mr. S. Y. Abhyankar, Advocate, Bombay High Court expressed his opinion to cut out all the provisions relating to adoption.

(2)
Rani Laxmibai Rajwade said "I should do away with adoption altogether".

(3)
Mrs. Sarla Bai Naik, M.A., representing the Indian Women's Council said that the provisions regarding adoption seems to take away the religious significance.

(1)
Mr. Manubhai C. Pandia, Secretary Varnashram Swarajya Sangha, Bombay approved of the provisions in the Code regarding adoption.

(2)
Rao Bahadur P. C. Divanji agreed generally with the adoption provisions in the draft Code.

(3)
Mr. Gajandragadkar of Satara agreed generally with the Code on adoption.

DELHI

(1)
Messrs. Gyan Prakash Mithal and Prabhu Dayal Sharma representing the Sanatana Dharma Rakshini Sabha, Meerut.

DELHI—*contd.*

Oral evidence on adoption—*contd.*

Against	For
	(2) Rai Bahadur Harischandra representing the All India Mahasabha (Delhi Branch).

ALLAHABAD

(1) The All India Sanathana Dharma Mahasabha represented by Mahamahopadhyaya Chinnaswami Sastri, Principal, Oriental College, Benares Hindu University and others said : "As regards adoption, we want that it should be permitted only when the husband has expressly accorded his consent. We have no objection to this being declared to be the law throughout India, if uniformity is desired."	(1) The All India Agarwal Hindu Mahasabha, U.P. represented by Bishambarnath Sabha, U.P.
(2) Srimathi Vidyavathi Devi, Secretary, Arya Mahila Hitakarini Mahaparishad said that the present usages as regards adoption should be maintained. The State has no right to legislate on these matters.	
(3) Pandit Sri Sadayatan Pandya, Aharura, Vice-President, All India Varnashrama Swarajya Sangh.	

PATNA

(1) Mr. Panch Ratan Lal, President, Hindu Committee, Sheghati, Gaya said that adoption should not be allowed without the husband's express authority.	(1) Sri Sitaramiya Brojendra Prasad, Retd. Subordinate Judge.
(2) Sri Awad Behari Saran, Government Pleader, Shahabad said that the present law should not be changed in any way. The Bombay rule is not approved by him.	(2) Mr. Naval Kishore Prasad (No. II) Advocate, Patna High Court.
(3) Mr. Krishna Deva Prasad appearing on behalf of the Patna District Bar Association said that they did not consider the Bombay rule to be suitable for all Provinces.	(3) Mr. G. P. Das, Government Pleader and Public Prosecutor (Orissa) in the Patna High Court.
(4) Rai Sahib Sri Narayan Arora and 10 others representing the Provincial Hindu Mahasabha said that adoption should be with the express permission of the husband as under the existing law.	(4) Mr. Manmatha Nath Pal, Advocate, High Court says that the provisions in the draft code as regards adoption are excellent and he has no objection to them.
(5) Sri Brahmo Deo Narayan, Advocate.	(5) Mr. Satis Chandra Misra, Advocate.
	(6) Mr. Navadwip Chandra Ghosh, Advocate, Patna High Court on behalf of the All India Yadav Mahasabha approved of the provisions.
	(7) Mr. Hari Nandan Singh, M.L.A., Advocate.

My conclusion on the question whether the rule which obtains in Bombay that the husband's consent to adoption by the widow is to be presumed in the absence of prohibition should be applied to all the Provinces namely even where husband's consent written or oral is necessary before the adoption can be made by the widow.

My view is that the law should be left as it is as there is no preponderating evidence in favour of the Bombay rule.

BOMBAY

3. Whether Monogamy should be made a rule of law.

Against	For
(1) Mr. Manubhai C. Pandia, Secretary, Varnasharam Swarajya Sangha, Bombay said "I agree that monogamy should be the ideal but it should not be enforced by law. Where a man marries a second wife I agree that he should give one-third of his property to the superseded wife."	(1) Mr. S. Y. Abhyankar, Advocate while approving it said that exceptions should be permitted in certain cases.
(2) Messrs B. H. Joshi and P. V. Davre, Advocates of Poona said that a man should be allowed to have at least two wives.	(2) Mahamahopadhyaya P. V. Kane on behalf of Dharma Nirnaya Mandal said "The mandal accepts monogamy as the rule, but would suggest that occasional exceptions should be permitted, for example, on economic grounds".
(3) Mr. Pusalkar of Kolhapur, a representative of Brahman Sabha.	(3) Mrs. Babi Ben Mulji Dayal while approving the rule said "Some exceptions should be permitted".
(4) Vyakarana Sinha Kashinath Ramchandra Umbarkar Sastri of Pandharpur.	(4) Mrs. Dharamsi Thakkar and others on behalf of the Representative Committee of Hindu Ladies said "We are in favour of monogamy, and cl. 29(4), Part IV, should be omitted, as it would defeat the principle of monogamy".
	(5) Miss Engineer, M.A., L.L.B., J. P., Honorary Secretary, Seva Sadan Society, Bombay said that the rule should be strictly enforced and no exceptions be allowed.
	(6) Mrs. Leelabai Phadke and Mrs. B. N. Gokhale on behalf of Arya Mahila Samaj, Bombay said "Monogamy should be the strict rule without exception".
	(7) Mr. Gajendragadkar of Satara.
	(8) Rao Bahadur G. V. Patwardhan.
	(9) Rani Laxmibai Rajwade approved the rule and said that no exceptions at all should be permitted.

BOMBAY—*contd.*

Oral evidence on Monogamy—*contd.*

Against	For
	(10) The Poona Bar Association represented by Mr. N. V. Bhonde and Mr. V. J. Kinikar approved that monogamy with suitable exceptions should be the rule. In all cases of exception the permission of a suitable court should be obtained and the King's proctor should be made a party.
	(11) Maharashtra Mahila Mandal of Poona represented by Miss Ranade and Miss Tarabai.
	(12) Mrs. Yamutai Kirloskar, representative of the All India Maharashtra Mahila Mandal.
	(13) Messrs. L. M. Deshpande, N. V. Budhkar, and N. A. Deshpande of Karad approved the rule with certain exceptions. (Barrenness and consent of first wife.)
(5) Mr. L. K. Safai representing Sri Shukla Maharashtra Brahman Sabha, Poona said that a man should be allowed to marry a second wife if the first wife does not bear a child for 12 years and if she is incapacitated for sexual life by reason of illness.	(14) Mr. L. K. Bhave representing the Maharashtra Brahman Sabha approved the rule but said that 12 years of childlessness due to any defect or incapacity of wife should enable the husband to contract a second wife, and also where the wife is seriously ill and is incapable of discharging her conjugal duties, the husband should marry again.
	(15) Mr. D. V. Joshi said "I am for monogamy with qualifications. A woman should not be allowed to remarry under any circumstances."
	(16) Lady Vidyagauri Neelkanth, President, Gujarat social reform association and of the Bombay Provincial Women's Council (Ahmedabad branch) said that monogamy should be the strict rule without any exception whatsoever.
	(17) Mr. Patwari, Advocate, Ahmedabad.

DELHI

Against	For
(1) Mr. Ganapat Rai, Advocate, Delhi and Agent, Federal Court representing the Delhi Provincial Hindu Sabha said "I am against monogamy in present day conditions".	(1) Acharya Chandra Sekhara Sastri, Editor, "Vaisya Samachar" supports monogamy without exceptions.
(2) Messrs. Gyan Prakash Mithal and Prabhu Dayal Sarma representing the Sanathana Dharma Rakshini Sabha, Meerut.	(2) Mr. Jyoti Prosad Gupta, an Agarwal Vaisya of Delhi supported monogamy without any exceptions.

DELHI—*contd.*

Oral evidence on Monogamy—*contd.*

Against	For
(3) Mr. Chand Karan Sarda, President, Rajputana Provincial Hindu Sabha said "I am in favour of monogamy, but with the permission of the caste concerned a man should be allowed to take a second wife".	(3) Mrs. Rameshwari Nehru, and two other ladies representing the All-India Women's Conference supported monogamy without exceptions.
(4) Rai Bahadur Harischandra, Senior Advocate, Delhi, representing the All-India Hindu Mahasabha (Delhi Branch) said "On monogamy, the law should remain as it is, for political reasons as well as others we would not approve of even 1/3rd share to the superseded wife".	(4) Mr. K. Sanatanam, Ex-M.L.A.
(5) Pandit Nilkantha, Das, M.L.A. said "I am against monogamy being insisted on by a law. But if suitable exceptions are made, I may re-consider the matter."	(5) Mr. Wazir Singh of Singh Marriage Bureau, an Arya Samajist.
(6) Mr. Makhanlal Sastri, a representative of the Digambar Jain Maha Sabha said "I am against monogamy. If a man is healthy and wealthy, he should be allowed to marry again. There should be no legal impediments : society will enforce its own standards."	

ALLAHABAD

Against	For
(1) Mr. Bajranglal Chand Gotriya, Gita Press, Gorakhpur.	(1) Mr. S. K. Dutt said "I have no objection to marriages which have resulted in children being made monogamous. Where the wife is barren, I would permit the husband to take a second wife".
(2) The All-India Varnasharama Swarajya Sangh, Benares represented by Mr. V. V. Deshpande of Benares.	(2) The All India Dharam Sangh represented by Pandit Ganga Shankar Misra, Pandit Ramayesh Tripathi and others said :— "I recognize that monogamy is perferable, but there are cases where a second wife may be necessary, for example, where the first wife is barren or begets only female children. Where however there is a male child of a marriage a second marriage should be prohibited."
(3) The All India Sanathana Dharma Mahasabha, represented by Mahamahopadhyaya Pandit Chinnaswami Sastri, Mr. T. V. Ramchandra Dikshit, Pandit Mahadeva Sastri and Pandit Viswanatha Sastri said "The Shastras permit a man to have more than one wife and monogamy should not be insisted on by legislation".	(3) The Swamiji of the Jai Guru Society said "I am in favour of monogamy, Neither the husband nor the wife should have another spouse. My society does not, however, agree with me. On this point I am in disagreement with the views of the majority."
(4) Sri Mathi Sundari Bai, Headmistress of the Arya Mahila Vidyalaya and Editor of the "Arya Mahila" a monthly magazine, said "The Shastras permit a man to marry a second wife, if he has no male issue. Marriage is not for carnal pleasure but for spiritual benefit".	
(5) Pandit Subodh Chandra Lahiri of Benares on behalf of the Kashi Pandit Samaj considered monogamy to be useless and unnecessary. Cases of polygamy were few. For the protection of society, polygamy should be allowed. Enforcement of monogamy might facilitate conversion to Islam.	

Oral evidence on Monogamy—*contd.*

Against	For
(6) Pandit Sri Sadayatan Pandya, Aharaura, President of the U.P. Dharma Sangh said "Monogamy should not be enforced. At any rate polygamy should not be made penal."	
(7) Sri Guruling Sivacharya on behalf of the Jangamadi Mutt, Benares does not approve of the code. Changes in Hindu law can only be made after consultation with Matadhipatis and Dharmacharyas.	
PATNA	
(1) Sri Awad Behari Saran, Government Pleader, Shahabad said " I am not in favour of monogamy nor am I in favour of unrestricted polygamy. I am thus for monogamy but with some necessary exceptions."	(1) Sri Sitaramiya, Brojendra Prasad, M.A. B.L., Retired Subordinate Judge.
(2) Mr. G. P. Das, Government Pleader and Public Prosecutor, Orissa in the Patna High Court said "It may be the rule if there is issue of the marriage. No remarriage even if there is daughter. I would not enforce this restriction by a law."	(2) Mr. Awath Bihari Jha Advocate, Patna approved monogamy but said that a second marriage could be permitted when a man is sonless.
(3) Mr. Rai Tribhavan Nath Sahai, Advocate, representing the Central Bihari Association said the no rule of law is necessary.	(3) Mr. Panch Ratan Lal, President, Hindu Committee, Shegati, Gaya, approved monogamy but said that in the event of no child or only a female child the man should have liberty to marry again.
(4) Mr. Manmatha Nath Pal, Advocate said that he is against making monogamy a rule of law.	(4) Mr. Naval Kishore Prasad, No. II, Advocate, Patna High Court.
(5) Mr. Satish Chandra Misra, Advocate said that he is opposed to legislation for monogamy. It is a matter which should be left to Hindu society to take care of.	(5) Mr. Nitai Chandra Ghose, Advocate, Patna said "Monogamy should be enforced without any exception".
	(6) Mr. Kapildeo Narain Lal, Advocate agreed to the provisions of the Code subject to certain exceptions.
	(7) Messrs. Chandrasekhar Prasad Sinha and Atulendu Gupta, Pleaders on behalf of the Dinapore Bar Association supported the rule of monogamy.
	(8) Bihar Provincial Hindu Mahasabha while supporting the rule said in some exceptional cases provisions should be made for a second marriage.
	(9) Sri Brahmo Deo Narain, Advocate approved the rule of monogamy without any exception.

Against	For
(6) Mr. Krishna Deva Prasad on behalf of the Patna District Bar Association said "We consider that to legislate in favour of monogamy would be an insult to the community which is quite competent to look after itself. Polygamy is a very rare thing."	
(7) Mr. Nawadwip Chandra Ghosh, Advocate, on behalf of the All India Yadav Mahasabha said that their Sabha did not approve of the rule.	
(8) Mr. Hari Nandan Singh, M.L.A., Advocate, said "I am against making monogamy a rule of law by legislation".	
(9) Mr. Mukteswar Pandya, M.L.A., opposed to the Code.	

CALCUTTA

Against	For
(1) Bengal and Assam Lawyers Association Mr. Phanindra Nath Brahma and others said "If monogamy were made obligatory on every community we would not object to monogamy for Hindus also."	(1) Mr. A. C. Gupta, Advocate supported the rule.
(2) Dr. Ananta Prasad Banerji, Principal , Sanskrit College, Calcutta strongly opposed the rule and said that the superseded wife should get one-third of husband's property.	(2) Prof. K. P. Chattopadhyaya of Calcutta University.
(3) Messrs. B. K. Chatterji and Chotaylal Kanoria as representatives of the Dharan Sangh.	
(4) Mahamahopadhyaya Chandidas Nayaya Tarkatirtha, President Bangiya Brahman Sabha, Mahamahopadhya Durga Charan Sankhya Vedantatirtha and others, Satyendranath Sen, Secretary, Varnashram Swarajya Sangha said that only in certain exceptional circumstances could the husband take a second wife. A rule enforcing monogamy would destroy Hindu society in Bengal.	(3) Joint Committee of Women's Organisations and All India Women's Conference—Mrs. Saralabala Sarkar, Mrs. Ela Mitra and others.
	(4) Mahamahopadhya Ananta Krishna Sastri approved the rule of monogamy with certain exceptions.
(5) Messrs. Hiralal Chakravarty, Ramaprasad Mukherji and others representing the Calcutta High Court Bar Association.	(5) Sir. N. N. Sircar, K.C.S.I., ex-Law Member, Government of India.
(6) Dr. N. R. Sen Gupta and two others representing Shastra Dharma Prachara Sabha.	
(7) Babu Tarak Chandra Das, Lecturer, Calcutta University said that monogamy should not be made a rule of law.	

Oral evidence on Monogamy—*contd.*

Against	For
(8) The United Mission represented by Messrs. S. N. Ghose and H. C. Ghose.	
(9) The Maharani of Natore and other Purdanashin ladies said that no law should be enacted.	
(10) Pandit Akshoy Kumar Shastri and others representing the Tarakeshwar Dharma Sabha said that no law should be enacted.	
(11) Srimati Anurupa Devi and Lady Brahmachari representing the Deshbandhu Mahila Vidyan Samiti said "No objection but no need for a rule of law".	
(12) Mrs. Basanta Kumar Chatterji.	
(13) Messrs. R. M. Gaggar, K. C. Kothari and B. D.D. Mundhra representing the Maheshwari Sabha said "There should be no hard and fast rule. If a rule is made exceptions should be provided, *e.g.*, barrenness."	
(14) Mr. Rishindra Nath Sarkar, Advocate said "I am in favour of monogamy, but not now. Let us wait and see what others do in post war conditions".	
(15) Mr. P. L. Shome, Advocate-General of Assam said "I do not think that monogamy should be enforced by law. A law enforcing monogamy might be politically dangerous."	
(16) Swami Ram Shukla Das and five others representing the Govind Bhavan opposed to all the provisions in the Code.	
(17) Mr. Satinath Roy and others representing the Indian Association said "Marriages are almost always monogamous in practice. Monogamy should not be enforced by law."	(6) Messrs. Sachin Chowdhury, G. P. Kar, K. K. Basu, and B. Das, Barristers, Messrs. H. N. Bhattacharya, N. C. Sen, R. N. Chakravarty, Advocates and Mr. R. C. Kar, Solicitor said "We think that the time has come to make this a rule of law. It is already a rule of practice and society is ready for its conversion into a rule of law."
(18) Mrs. S. R. Chatterji, Mrs. I. P. Ganguly, Mrs. S. P. Roy, Mrs. K. C. Chunder, Mrs. Amarbala Bhattacharya and others representing the Hindu Women's Association said "We do not think that it is necessary to make a law enforcing monogamy. It is better to leave this matter alone, whatever hardships might have arisen elsewhere. It is already the practice among the large majority."	
(19) Lady Ranu Mookerjee.	

CALCUTTA—*contd.*

Oral evidence on Monogamy—*contd.*

Against	For
(20) Mr. Kumar Purendra Nagore Tagore, Bar-at-law, representing the All India Anti-Hindu Code Committee said "We think that a Hindu should have an unrestricted right to marry as many wives as he likes. That is our law at present and it should continue. It is the Shastric law."	
(21) Mr. N. C. Chatterjee, Mr. Sanat Kumar Ray Chaudhury and Mr. Debendranath Mukherjee representing the Bengal Hindu Mahasabha said "We are opposed to monogamy being made a rule of law The general consensus of opinion is against it."	
(22) The Marwari Association, represented by Mr. Baijnath Bajoria, M.L.A., Rai Bahadur Ramdev Chowkhany and Mr. Bhuramal Agarwal, *(ii)* The Marwari Chamber of Commerce, and *(iii)* The All India Marwari Federation said "Monogamy is the rule in practice even now, and need not be made a rule of law".	
(23) The Maharaja of Cossimbazar and Mr. B. N. Roy Choudhury of Santosh said that monogamy should not be a rule of law.	

MADRAS

Against	For
(1) Diwan Bahadur R. V. Krishna Iyer, C.I.E., said "I am against monogamy. Polygamy prevails largely in villages where for economic reasons more wives than one are necessary. I feel that it would be economically unsound and practically impossible to enforce monogamy. Besides monogamy will have the effect of encouraging concubinage. I would not object if a second marriage is prohibited except with the consent of the first wife."	(1) The Right Hon'ble V. S. Srinivasa Sastri said "I was astounded at some sensible people's objections to monogamy. I thought that the pride of Hinduism was that although polygamy was permitted in theory, it was monogamy which was actually practised. It is therefore surprising that when monogamy is sought to be enacted as a rule of law hands should be raised in horror."
	(2) Rao Bahadur K. V. Krishnaswamy Ayyar said "I am in favour of monogamy, but in a limited form".
	(3) Mrs. Indrani Balasubramaniam.
	(4) Sir Vapa Ramesam, Retired High Court Judge.
(2) Mr. S. Muthia Mudaliar, C.I.E., Advocate and ex-Minister said "In certain cases a man should be allowed to take a second wife, giving one-third or one-fourth of his property to the superseded wife, *e.g.*, where the first wife is lunatic, or a permanent invalid, or barren, or possessed of a bad temperament."	(5) Mr. K. Bashyam and others representing the Madras High Court Advocates Association said "Monog amy should be strictly enforced without exceptions even in the case of sacramental marriages".

Oral evidence on Monogamy—*contd.*

Against

(3)

Mr. P. V. Rajmannar, Advocate-General of Madras and Judge-designate, Madras High Court said "I agree to the provision for divorce but not to the strict enforcement of monogamy. If monogamy is enforced on a man who is polygamous by nature, it would only lead to increased concubinage."

(4)

Mr. K. S. Champakena Iyengar, Advocate on behalf of the Venamamalai Mutt said "Bigamy should not be made penal. In practice not more than one marriage in a thousand is polygamous. I would nullify a second marriage when there is a son by the first marriage, and the first marriage subsists. I would also insist on the consent of the first wife being taken for the second marriage."

(5)

Mr. G. V. Subha Rao, President of the Andhra Swarajya Party, Goshti, Bezwada, said " I do not support monogamy. To meet post-war conditions, polygamy may be necessary. Hinduism will die out, if monogamy is enforced among the Hindus alone."

(6)

Mr. V. Appa Rao, Advocate, Vizagapatam appearing for the *Ad Hoc* Committee and Bar Association, Vizagapatam said "We are against monogamy. At the same time restrictions should be imposed on the practice of polygamy. A Hindu should be permitted to take a second wife in cases of the first wife's barrenness and disease with the consent to the wife and the permission of a Court."

(7)

Mr. B. Sitarama Rao, Advocate, Madras High Court says that monogamy is not desirable as divorce will have to be necessarily provided. Second wife may be allowed under certain conditions.

(8)

Sir P. S. Sivaswami Iyer, said "I do not think it necessary to prohibit polygamy by a law. As a matter of fact, monogamy is practically observed by most people."

(9)

Diwan Bahadur K. S. Ramaswami Sastri, Retd. District and Sessions Judge said "With the consent of his wife a sonless man may be permitted to remarry, provided the husband is less than 50."

For

(6)

Mr. K. Kuttikrishna Menon, Government Pleader.

(7)

Mr. P. Govinda Menon, Crown Prosecutor.

(8)

Mr. S. Guruswami, Editor, New Viduthalai, a Tamil daily.

(9)

Mrs. Kunjitham Guruswami, Lecturer for the National War Front.

(10)

Mrs. Ambujammal and Mrs. Savitri Rajan representing the Women's Indian Association, Madras.

(11)

Mr. P. V. Sundaravaradulu, Advocate, Chittoor.

(12)

Sri Rao Bahadur D. S. Sarma, M.A., President of the Harijan Sevak Santh, Andhra Provincial Branch.

(13)

Rao Bahadur V. V. Ramaswamy, Chairman, Municipal Council, Virudunagar.

(14)

Mr. P. Balasubramania Mudaliar, Editor, Sunday Observer.

(15)

Srimathi M. A. Janaki, Advocate.

(16)

Sri Thethiyur Subrahmanya Sastriar, President, Madura Adwait Sabha.

(17)

Miss E. T. Chokkammal, Advocate, Madras High Court.

(18)

Mr. V. N. Srinivasa Rao, M.A., Bar-at-law representing Madras Majlis.

(19)

Sri V. Venkatarama Sastri, representing nine organizations.

(20)

Messrs. V. P. S. Manian, R. P. Thangavelu and M. Ponnu representing the South Indian Bhudhist Association.

Against

(10)

Mr. S. Srinivasa Iyer, Advocate and Vice-President, Madras City Hindu Mahasabha said "We are against monogamy. It is against idiology. There should be no legal restriction on polygamy, which is good for increasing the population. It will be suicidal for Hindus to have a law making polygamy illegal. Even now, there are 30,000 conversions per month. The enforcement of monogamy will accelerate the process."

(11)

Sri K. Balasubramania Iyer, Advocate, Madras High Court, said "This should not be a rule of law. It must be enforced, if at all, by a common territorial law. I shall not object to monogamy, if it is made applicable to all communities in the land without discrimination."

(12)

Mr. T. V.-R. Appa Rao, Advocate of Narsapur, representing the Narsapur Bar Association.

(13)

Messrs. K. S. Mehta and M. L. Sharma, representing the Sowcar's Association and the Marwari Association.

(14)

Mr. N. Srinivasa Sastri of Papanasam.

(15)

Mrs. Kamalammal of the Asthika Madar Sangham, Councillor of the Saidapet Municipality.

(16)

Messrs. S. Mahalinga Iyer, T. L. Venkatarama Iyer, and V. Narayana Iyer, Advocates and Pandit K. Balasubrahmanya Sastri representing His Holiness the Sankara-Charya of the Kanchi Kamakoti Peeth said "There need be no legal restrictions on polygamy, because there are natural restrictions which are working satisfactoritly."

(17)

Rao Sahib N. Natesa Iyer, representative of the All India Varnashrama Sangh, Madras Dharma Sabha, Madura Dharma Sevaka Sangh, the Orthodox Ladies' Association, Madura.

(18)

Mrs. Pattamal of the Asthika Madar Sangham, Madras, said "Monogamy is practised now, but it should not be enforced by legislation. "A law laying down monogamy will cause conflict. Improper marriages do take place sometimes and should be stopped if possible."

(19)

Diwan Bahadur Govindoss Chaturbujdoss.

For

(21)

Sri V. V. Srinivasa Iyengar, Retd. High Court Judge, Madras.

(22)

Mr. P. C. Reddy of the V. R. College, Nellore.

(23)

Mr. V. M. Ghatikachalam, Secretary, Madras Provincial Backward Classes League.

(24)

Mr. B. N. Guruswami, Secretary of the Tamilar Nalvazhkkai Kazhagam, Madras.

(25)

Mr. R. Suryanarayana Rao, a member of the Servants of India Society.

NAGPUR

Oral evidence on Monogamy—*contd.*

Against	For
(1) Mr. G. T. Bride, Advocate, Nagpur.	(1) The National Council of Women in India, represented by Mrs. Ramabai Thambe, Miss A. J. Coma, Mrs. Naidu and Mrs. Mandpa.
(2) Dr. D. W. Kathalay, Advocate, supported by Dr. B. S. Moonje and Mr. B. G. Kharparde, an ex-Minister of the C. P.	(2) Mrs. Natesha Dravid and Miss P. Pradhan, Advocate, Members of the All-India Women's Conference.
(3) Mr. A. R. Kulkarni, Advocate opposed to monogamy for political reasons. He stressed that if it is introduced it must be made applicable to Muslims also.	
(4) Diwan Bahadur K. V. Brahma, Advocate.	
(5) Mr. B. D. Kathalay, B.A., LL.B.	
(6) The Jain Seva Mandal, Nagpur and the Jain Research Institute, C. P. and Berar said "Monogamy, in principle, we accept. But the man should be allowed to remarry in certain exceptional cases."	
(7) Professor M. R. Sakhare, and Mr. I. S. Pawate, Sub-Judge, Baramati, Poona, on behalf of the Lingayats, Bombay Presidency.	
(8) Dr. K. L. Daftri, B.L., D. Litt., said "I am in favour of monogamy except in certain exceptional circumstances."	
(9) Diwan Bahadur Sita Charan Dube, Advocate.	
(10) Mr. P. B. Gole and others representing the Varnashrama Swarajya Sangh of Akola said "Monogamy should not be enforced compulsorily."	
(11) Mr. N. V. Machewa, Organizer of Reformed Marriage Institutions, Nagpur, said that monogamy, though desirable, should not be made a rule of law.	
(12) Mr. S. N. Kherdekar, B.A., M.L., Advocate, Nagpur.	
(13) Lady Parvatibai Chitnavis and others disapproved on political grounds.	
(14) The Hon'ble Justice Sir M. B. Niyogi of the Nagpur High Court.	

LAHORE

Oral evidence on Monogamy—*contd.*

Against

(1)

Lala Jamna Das and Pandit Jagat Ram Sastri, Principal of the Sanathan Sanskrit College, Hoshiarpur, representing the Sanathan Dharma Sabha, Hoshiarpur, said "The Sabha is against monogamy. After waiting for a number of years, say 8, 10 or 12, if the wife is barren, another wife may be permitted to be taken for procreating children, without putting aside the first wife."

(2)

Mr. Luxmi Narayan Sudan, representing the Sanathan Dharma Prathinidhi Mahasabha, Rawalpindi.

(3)

Dr. Prabhu Datt Shastri, Ph.D., Dr. Parasu Ram Sharma, Mahamahopadhyaya Pandit Parameshwaranand and Pandit Raghunath Datta Shastri, representing the Sanatana Dharma Pratinidhi Sabha of the Punjab said "We are in favour of monogamy except in certain exceptional cases, as detailed in the Mitakshara, *e.g.*, barrenness, desertion, etc."

(4)

Mr. Malik Arajan Das, General Secretary, Punjab Provincial Hindu Sabha.

(5)

Mahamahopadhyaya Girdhar Sharma Chaturvedi, Dr. D. S. Trivedi, Ph. D. and others representing the Sanathan Dharam Vidyapith of Lahore said "We are in favour of monogamy being made a rule of law, but certain exceptions should be made, for example, where the wife is barren. The other exceptions recognized in the dharma shastras should also be embodied in the Code."

(6)

Sardar Sahib Iqbal Singh, Advocate, Lahore High Court, representing Sikh opinion said "I do not want any legislative interference in the matter of monogamy".

(7)

Mr. S. Nihal Singh, Advocate, President of the All-India Hindu Women's Protection Society expressed his opinion in favour of monogamy with certain exceptions, bigamy not to be made an offence.

(8)

The Hindu Ladies of Lahore—Srimathi Panditha Krishna Devi—expressed opinion against monogamy being made a rule of law.

(9)

The Hindu Ladies of Amritsar represented by Sardarni Kamalawati Misra, Vice-President, All India Women's Conference.

(10)

Pandit Nandlal Sharma of Rawalpindi.

(11)

Pandit Raj Bulaqi Ram Vidya Sagar, Retd. Religious Instructor, Mayo College, Ajmer, President, Anti-Hindu Code Committee, Amritsar.

For

(1)

Mr. C. L. Anand, Principal Law College, Lahore.

(2)

Mr. Narottam Singh Bindra, Advocate, High Court, Lahore.

(3)

Mr. Jiwan Lal Kapoor, Bar-at-law.

(4)

Miss Nirmal Anand, M.A., Lecturer in Geography, Kinnaird College for Women.

(5)

A women's delegation consisting of 10 members, Mrs. Dunichand of Ambala and others.

(6)

Mr. C. L. Mathur, Reader, Law College, Lahore.

(7)

Miss Subrul, Principal, Fateh Chand College for women, while approving monogamy said that a widower should marry only a widow.

(8)

Mrs. Lekhwati Jain of Amritsar, representative of the Jain Mahila Samity.

Oral evidence on Monogamy—*concld.*

Against	For
(12) Mr. Mehta Puranchand, Advocate, representing the Dharam Sangh, Lahore.	
(13) Pandit Mehr Chand Sastri of Sanatan Dharam Sanskrit College, Bannu, N.W.F.	
(14) Pandit Rubilal Sharma and others representing the Sanatan Dharma Prachar Sabha opposed to monogamy being made a rule of law.	
(15) Mr. Kesho Ram, Advocate, Amritsar, President, Bar Association and also of the Durgiana Temple Committee.	
(16) Pandit Brahmu Ram, General Secretary, Kangra Sudhar Sabha approved monogamy with exceptions.	

My conclusion on the question whether monogamy should be made a rule of law.

I am definitely of opinion that it is not necessary to make it a rule of law, as for economic reasons the vast majority of Hindus are monogamous.

BENGAL

WRITTEN STATEMENTS

7. Whether divorce should be permitted in sacramental marriages.

Against	For
(1) Mrs. S. R. Chatterjee, Honorary Secretary, Hindu Women's Association, Calcutta, said "My Association is strongly opposed to the introduction of the practice of divorce in sacramental marriages if for no other reason, at least, because it will do more harm than good to the unfortunate woman. Having regard to the present conditions in the Hindu society, even maiden girls find it difficult to get suitable husbands. The Hindu Widows' Remarriage Act has remained in force for nearly a century, but how many widows have got themselves married? A divorced wife would be in a worse position—she will have to remain single, like a spinster or a widow, without the advantages of either position throughout her life, in matters of inheritance, maintenance and so forth. So my Association is advised to object to the introduction of monogamy and divorce in the new Bill. Their right place is in the civil marriage which the Committee has quite properly given to them."	(1) The Joint Committee of Women's Organisations, Bengal. (2) Calcutta Branch of the All India Women's Conference. (3) Professor K. P. Chattopadhyaya, M.Sc. (Cantab)., Professor of Anthropology, Calcutta University. (4) P. N. Singh Roy, Esq., O.B.E., Hony. Secretary, British Indian Association, Calcutta, said "Marriage, according to Hindu Law, is a holy union for the performance of religious duties. It is therefore necessary to restrict the provisions of the nullity of marriage to the minimum in the case of sacramental

Against

(2)

The Maharaja of Burdwan said "New provisions for the laws of marriage and divorce will complete the cultural conquest of India which has yet remained unconquered for thousands of years in spite of multifarious ups and downs in her history. Statistics again of cases of divorce and other relevant data on the point of different countries is essential before we change the existing law."

(3)

Maharaja S. C. Nandy, M.A., M.L.A.,of Cossimbazar, President, All Inida Anti-Hindu Code Conference and Committee said "Divorce is not yet an acute problem in Hindu Society ....Civil Marriage is a safety valve for those with ultra modern ideas. If any amendments are needed these may be made in Civil Marriage Acts or elsewhere. But Hindu law should not be tampered with to serve the needs of non-Hindu ideas and concepts."

(4)

The Indian Association, Calcutta, said "Divorce being unknown to Hindus, the position of divorced women can easily be imagined and surely in a marriage negotiation a divorced woman will always stand lesser chance than maiden, whose marriage has become a difficult problem now a days. Regard being had to the position of wife after divorce as well as that of the children of the marriage and particularly in villages, it is objected, and the grounds for such a provision in the draft Hindu Code do not appeal as necessary or expedient."

(5)

Dr. P. C. Biswas, M.Sc., Ph.D., Lecturer, Calcutta University, Anthropology Department.

(6)

Mr. T. C. Das, Senior Lecturer in Social Anthropology, Calcutta University.

(7)

Mr. B. N. Roy Chowdhury of Santosh said "Divorce is utterly repugnant to the Hindu idea of marriage as a Samskara introduction of divorce would be ruinous to the interests of females and would affect them more than males, until they are more literate and able to look after their affairs and earn their own living. A few instances of hardship do not justify a sweeping change in the existing law."

(8)

All India Anti-Hindu Code Committee said "Divorce is repugnant to Hindu sentiment and as opposed to the 'Sastric' injunctions. The passage in 'Narad' and "Parasar" is incorrectly interpreted to mean divorce whereas it deals with cases only after betrothal. Hindu marriage once performed is always indissoluble."

For

marriage. In the opinion of the Association the question of nullity should only arise in respect of marriages where no consumpation can take place marriages within prohibited relationship, marriages between sapindas, marriage of a lunatic or of a congenital idiot, and marriage of a woman whose husband was living at the time of the marriage. Accordingly sub-clauses of clause 29 should be modified."

(5)

Mr. Nirmal Chandra Pal, Lecturer, Dacca University, Ramna, Dacca.

(6)

Mr. Sunity Kumar Chatterji, M.A., D. Litt. (London), Professor, Calcutta University.

(7)

Mr. Sachin Chaudhury, Mr. K. K. Basu, Mr. B. Das, Mr. Nirmal Ch. Sen, Mr. Rabindranath Chakravarti, Barrister, Advocate, Mr. Rabindrachandra Kar, Solicitor, and certain others.

(8)

Professor S. N. Das Gupta, C.E.I., I.E.S. (Retd.) said "Cl. 30 of Part IV provides for decrees of dissolution of marriage but the grounds on which such dissolution are granted are sometimes quite frivolous. ....the Provision of the law for dissolution seems to be too inadequate. In any case there ought to be sufficient provision for dissolution of marriage where the parties appear to be incompatible.

(9)

Mr. Basantlal Murelall, Calcutta, Secretary, Nawjiwan Sangha and ex-President, All India Marwari Agarwal Mahasabha.

Against

(9)

Mahila Atma Raksha Samiti, Tamluk, Midnapur (Uma Nag), Secretary, said "The Samity is of opinion that it will not be beneficial to women, generally. Hindu marriage is a sacrament and as such it cannot be dissolved light-heartedly at will. Hindu law givers provided no law for divorce and this was for the sole purpose of maintaining peace and harmony in society and perhaps for greater benefit to women than men. There might be an insignificant number of cases of so-called hardship but by far the largest number of marriages in the Hindu Society is successful. So there is no justification for the provision of divorce on the analogy of contractual marriages. Easy divorces would create havoc in the family life and make unhappy homes."

(10)

S. G. Mookerjee, Esq., Subordinate Judge, Rajshahi, said "A marriage from the Hindu point of view creates an indissoluble tie between the husband and wife. There should not be any provision regarding divorce in the Hindu Code."

(11)

B. K. Basu, Esq., I.C.S., District Judge, Mymensingh.

(12)

S. N. Guha Roy, Esq., I.C.S., District Judge, Nadia.

(13)

Rai N. N. Sen Gupta, Bahadur District Judge, Burdwan.

(14)

S. C. Ghosh, Esq., Subordinate Judge, Birbhum.

(15)

R. S. Trivedi, Esq., I.C.S., District Judge, Murshidabad.

(16)

Mr. Bankim Chandra Mukherji, M.L.C., Advocate, High Court, said "Divorce is a subject which is repugnant to the idea of sacramental marriages under the Hindu Law and would introduce a confusion in society which should be avoided if possible."

(17)

High Court Bar Association.

(18)

Howrah Bar Association.

For

(10)

Mr. B. P. Himatsingka, B.A., B.L., Temple Chambers, Calcutta.

(11)

Lady Abala Bose, Secretary, Nari Sikhsa Samiti, Vidyasagar Bani Bhaban and Mahila Silpa Bhawan.

(12)

Prativa Mitra (President), A.I.W.C., Mymensingh Branch.

(13)

Burdwan District Mahila Atmaraksa Samity.

(14)

Indira Devi Chaudhuri, President, Santiniketan Mahila Samity, Santiniketan.

(15)

Mrs. Sellammai Natarajan, Kalighat, Calcutta, said "For cases of hardship there should be a remedy by divorce. But divorce should be granted only in exceptional cases; it should be made as difficult as possible. It should not be admissible for petty suspicion of conduct or even for change of religion. We certainly do not want to make divorce as easy as in Western countries."

(16)

The District Judge, 24-Parganas.

(17)

S. Sen, Esq., I.C.S., District Judge, Howrah.

(18)

A. S. Ray, Esq., I.C.S., District Judge, Birbhum.

(19)

S. K. Haldar, Esq., I.C.S., District Judge, Backerganj, said "If a sterile wife be divorced, the law makes no provision as to how she would maintain herself. This is a serious drawback and in my view adequate provisions must be made in such a case."

(20)

S. K. Sen, Esq., I.C.S., District Judge, Tippera.

(21)

P. Dinda, Bar-at-law, Midnapur.

BENGAL—*contd.*

Against

(19)
Incorporated Law Society of Calcutta.

(20)
Bar Library, Natore.

(21)
Secretary, Bar Association, Dacca.

(22)
Bar Association, Khulna.

(23)
The Burdwan Bar Association.

(24)
The Rajshahi Bar Association.

(25)
The Tamluk Bar Association.

(26)
The Bar Association, Midnapore.

(27)
Pleader's Association, Tamluk.

(28)
Netrokona Bar Association.

(29)
Barisal Bar Association.

(30)
Mr. Nalini Kumar Mukherji, Advocate.

(31)
Mr. F. Gopal Chandra Biswas, Pleader, Barisal.

(32)
Mr. N. L. Bhattacharya, Advocate, Calcutta.

(33)
Subodh Chandra Sen, Pleader, Midnapore.

(34)
Indu Bhushan Biswas, Secretary, Bar Association, Bagherhat.

(35)
P. N. Bagchi, Pleader, Kusthia.

(36)
Sureshchandra Dutta, Pleader, Khulna.

(37)
Deva Prosanna Mukherji, Advocate and Zamindar.

(38)
Tarak Nath Basu, Pleader, Chinsura.

(39)
Maha Mahopadhya Chundidas Nyayatarkatirtha, President, Bangiya Brahman Sabha, Calcutta.

(40)
Sri Anantakrishna Sastri, Calcutta.

For

(22)
Rai Bahadur Bijay Bihari Mukherji, Advocate, High Court, Retired Director of Land Records and Survey, Bengal, said "About Divorce, I would adhere to Parasara".

(23)
Mr. Sanat Kumar Rai Chowdhury, said "If a law is to be changed insert Parasara's condition for this solution of marriage".

(24)
Bengal and Assam Lawyer's Association, Alipore, said "There should be no dissolution of marriage except under circumstances justifying it under the present Hindu Law".

(25)
Purna Chandra Dutt, President, Bar Association, Kalna.

(26)
P. Neogi, Principal, Maharajah Manindra College, Calcutta said "Proved adultery and desertion from protection should be the only grounds on which a male can divorce his wife".

(27)
S. R. Das, Esq., 118, Kalighat Road, Calcutta.

BENGAL—*contd.*

Against	For
(41) Srijiva Nyayatirtha, Principal, Sanskrit College, Bhatpara.	
(42) H. M. Banerjee, President, United Mission.	
(43) Manmathanath Tarkatirtha, Principal, Mulajore Sanskrit College.	
(44) Rajendramudkkil, Pleader, Secretary, Dharma Sabha, Mymensing.	
(45) Himangshu Bhushan Chakravarti, Malda.	
(46) The Commissioners of the Budge Budge Municipality.	
(47) Mr. Hari Krishna Jharjharia, Calcutta.	(28) A. C. Samadder, Kalighat.
(48) P. C. Chatterjee, M.A., B.L., Manager, Tarakeswar Estate.	(29) Dr. S. Datta, Principal, Rajshahi College.
(49) Rao Bahadur S. K. Sahana, Vidyavinode, Ex-M.L.C., Bankura.	(30) The Chairman, Baidabati Municipality, Serampore, said "Divorce should be allowed only under very special circumstances and not for the purpose of facilitating re-marriage. There is complication about children".
(50) The Commissioners of the Jiaganj-Azimganj Municipality.	
(51) Charuchandra Pal, Hony. Secretary, Ghee Merchants Association, Calcutta.	
(52) Rao Saheb Rajendra Ch. Banerji, Senior Professor of Physics, Bankura Christian College, Bengal.	
(53) Anandra Charan Mukherjee, President, Patuakhali Sub-divisional Hindu Mahasabha.	
(54) The Commissioners of the Berhampore Municipality.	
(55) Manishinath Basu Saraswati, M.A., B.L., M.R.A.S.	
(56) Rai Surendra Narayan Sinha Bahadur, Chairman, Murshidabad District Board.	
(57) Maharajadhirajah of Darbhanga, President, Bengal Landholders Association.	
(58) Srimati Anurupa Devi.	
(59) Pt. Kaumudikanta Nyayatarkatirtha, Adhyaksha, Visweswari Chatuspathi, Mymensingh.	

BENGAL—*contd.*

Against	For
(60) The Hon'ble Judges, High Court, Calcutta—R. C. Mitter, B. K. Mukherjee, C. C. Biswas, A. N. Sen, said "We are entirely opposed to introducing divorce into Hindu Law. We do not think that the right of divorce has conduced to greater social well-being or harmony in the systems where this right exists. At any rate the Hindu conception of marriage as a sacrament is diametrically opposed to the idea of divorce; and we feel this idea is abhorrent to the average Hindu. We may add that if divorce is at all allowed, the grounds of divorce should be such as are recognized in other systems where it exists, and not what the Committee have thought fit to provide."	
(61) to (92) Thirty-one Retired District Judges and Subordinate Judges of Bengal—Page 301—Vol. I.	

BOMBAY

Oral evidence on divorce in sacramental marriages.

Against	For
	(1) Mrs. Sarojini Mehta on behalf of the Bhagini Samaj, Bombay.
	(2) Mr. S. Y. Abhyankar, Advocate.
	(3) Mr. Ranubhai D. Desai, Solicitor, Bombay, said he would like to see an express provision for alimony and also for dissolution of marriage on the ground that one of the parties had renounced the world.
	(4) Mahamahopadhyaya P. V. Kane on behalf of the Dharma Nirnaya Mandal said "We would suggest that the period of 7 years should be reduced to 5 years. We would also suggest that disappearance without any news for 7 years becoming an ascetic. and unbearable cruelty should be added as grounds for dissolution of marriage."

Classification of oral evidence on the point taken in different Provinces

Name of Province	Against	For
Bombay	9	22
Delhi	4	5
Allahabad	11	1
Patna	18	*Nil.*
Calcutta	23	4
Madras	15	30
Nagpur	7	5
Lahore	16	11

My conclusion on the question whether divorce should be permitted in sacramental marriages.

This provision in the Code has raised the most vehement controversy. But it may be generally stated that except a few social reform associations which represent a very small portion of Hindu India all opinions are against the introduction of divorce in sacramental marriages. The Hindu Women's Association, Calcutta, in their written Memorandum through Mrs. S. R. Chatterji, their Honorary Secretary, states (page 181-Vol. I) "My Association is strongly opposed to the introduction of the practice of divorce in sacramental marriages, if for no other reason, at least, because it will do more harm than good to the unfortunate woman. Having regard to the present conditions in the Hindu society, even maiden girls find it difficult to get suitable husbands. The Hindu Widows' Remarriage Act has remained in force for nearly a century but how many widows have got themselves married? A divorced wife would be in a worse position—she will have to remain single, like a spinster or a widow, without the advantage of either position throughout her life, in matters of inheritance, maintenance and so forth. So my Association is advised to object to the introduction of monogamy and divorce in the new Bill. Their right place is in the civil marriage which the Committee has quite properly given to them." The President of this Association is Lady Sircar (wife of Sir Nripendra Nath Sircar, Kt., K.C.S.I., late Law Member of the Viceroy's Executive Council), who has seen much of eastern and western life. Lady Ranu Mookerjee, gave evidence before us in camera. She is the wife of Sir Biren Mookerjee, former Sherin of Calcutta and the daughter-in-law of the late Sir Rajendra Nath Mookerjee, the great commercial magnate of Calcutta. Lady Mookerjee said that she happened to be in a rather fortunate position as she had connection both with orthodox Association and those which were not, and therefore was in a position to speak about both sides of Hindu lives. She further said that she took more or less the same view as Mrs. S. R. Chatterjee and said that divorce, if introduced, would do more harm to women and men would take advantage of it. The divorced women will not get a place even in the street. Four Judges of the Calcutta High Court have said "We are entirely opposed to introducing divorce into Hindu law. We do not think that the right of divorce has conduced to greater social well-being or harmony in the systems where this right exists. At any rate the Hindu conception of marriage as a sacrament is diametrically opposed to the idea of divorce and we feel that this idea is abhorrent to the average Hindu." There is no provision for divorce in Hindu law. Manu says in Chapter IX, verse 46 that a woman once married cannot be sold or bartered away. The text from Parasara and Narada has been very much canvassed in support of the existence of divorce in Hindu law. That text is "Naste Mrite Probrajite clibe cha patitay patan, pancha sapatsu narinam patiranyo vidhiyete". All the Pandit witnesses have said that text refers to a case where a girl has been betrothed to a man (Bakdatta) and not where there has been consummation or marriage by the performance of ceremonies like the saptapadi. I think therefore that it would sap the vitals of Hindu society if divorce is introduced. Mr. Mandalik at page 428 of his Vyvahra Mayukha (Bombay—1880 edition) says that divorce is not known to the Smriti writers, but it is sanctioned by custom amongst the lower castes (*see* page 431 at p. 435). Mr. Mandalik gives the list of cases in which it is open to the parties to effect a divorce. Sri Anantaram Ayyar, Advocate, Kalidaikurichi in the Madras Presidency quotes from Dr. A. Mark, A Mathews the following "America's black spot is the Divorce Code. 'America's disease is divorce" and remarks the implications are obvious and a good pointer to the clamarous agitators. Some of the educated Hindu ladies have given evidence and said that with the examples of Sita, Sabitri, Damayanti before them they cannot think of divorce being introduced, in sacramental marriages. They have stated that for a few hard cases they should not be made to descend from their high ideals of chastity. Raghunandan whose authority is highly respected in Bengal in his Udbah Tattawam at page 129 says that even in the case of betrothed girl she cannot be given away to another bridegroom in the Bramha and other four classes of marriages but can be given away to another in the Asura form of marriage. According to Raghunandhan in no circumstances mentioned in Narada and Parasara text can a married girl be given away to another. But the question of widow re-marriage has been settled by the Hindu Widow Remarriage Act of 1856 and that is not to be touched by any legislation.

The basic texts of Hindu law on which the indissolubility of Hindu marriage is founded is "Sakritansa Nipatati *sakrit kanya prodiyete*" *i.e.* once is a daughter given. The text "Naste Mrite etc." refers to "Bakdatta" as has been stated above. The text 'Sakrit kanya prodiyete' is in Manu—Chapter IX, verse. 47. The sloke also occurs in 'Banaparba' in the Mahabharata. The test occurs in Yagnabalkya Smriti. In the Narada—Chapter 12, sloke 29. It is said that the rule Sakrit Kanya Pradiyete (once is a daughter given) applied to five kinds of marriage *i.e.* Brahma, and other four. Brahmidishu Bibaheshu Panchasu Bidhi smrita. Dr. Jolly in his note on 'Narada' page 171 said "This is the general rule regarding the indissolubility of the marriage tie". Diverse important restrictions of this rule are stated in paragraphs 24, 29, 30, 96 to 101 which cover the famous texts of 'Naste, Mrite, etc.' This shows that divorce was only allowed in the three inferior forms of marriages beginning with the Asura forms. All the Mahamahopadhyaya Pandits who have been examined have explained the text 'Naste, Mrite, etc." as not applying to marriages consummated or celebrated by 'Saptapade gaman' taking of the seventh steps. There is some opinion also that it may refer to the case of Niyoga—which is a practice forbidden in the Kalijuga *i.e.* the present age.

In view of the strong opposition both by men and women of the orthodox Hindu community this reform should not in my opinion be introduced for a few hard cases. I have stated that I am against divorce having regard to the bulk of Hindu opinion both of men and women. Mrs. Premchand, one of the most highly respected ladies in Bombay, President of the National Council of Women India, who was one of co-opted members in Bombay, is of opinion divorce given for extreme cases. In the case of desertion by the husband or by the wife 5 years time should be given. She stated that her experience as a Social worker is that women can be as difficult as men and opportunity should be given for rehabilitation if possible and divorce should not be made easy but it must under certain circumstances in the Code should be given. As I have said already that a few hard cases should not justify me in giving my opinion in favour of divorce when the idea of indissolubility of the marriage tie is ingrained in the Hindu mind and has not changed with the passage of centuries. As I have said at the outset my view is that the idea of enacting a Code should be dropped. I need not have anything about the details and merits of our Code. But not knowing what the view of the legislature will be I have given my opinion on the details also.

Now about Inter-Caste Marriages

I am not in favour of inter-caste marriages. Judicial decisions have consistently held that inter-caste marriages are illegal under the Hindu Law. Breach of that rule has been allowed in the case of Anuloma marriages. There seems to be no reason for the breach any further.

Sagotra Marriages

With regard to Sagotra marriages it is void under the Hindu Law. It is no marriage at all. In such circumstances there will be no hardship as the parties can marry under the civil marriage act.

DWARKANATH MITTER.

29th September, 1945

पुस्तकालय
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गुरुकुल कांगड़ी विश्वविद्यालय हरिद्वार

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